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June 6, 2023

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 a Request for Proposals ("RFP") and the Commission's July 29, 2022 Order Adopting Stipulation in Georgia Power Company's ("Georgia Power") 2022 Integrated Resource Plan, Docket No. 44160, enclosed for filing are revised final drafts of the following documents in support of Georgia Power's All-Source Capacity RFP for 2029-2031:

- All-Source Capacity RFP for 2029-2031
- All-Source Pro Forma Energy Storage System ("ESS") with Renewable Resource PPA (New Facility)
- All-Source Pro Forma Standalone ESS PPA (New Facility)
- All-Source Pro Forma Asset Purchase Agreement ("APA")
- All-Source Pro Forma Build Transfer Agreement ("BTA")

Georgia Power prepared a Summary of Proposed Changes to the 2024 All-Source RFP, which captures all of the changes Georgia Power made to the RFP Documents based on comments received from bidders and interested parties during the Comment Periods. The Summary of Proposed Changes as well as clean and redlined copies of each of the revised documents listed above will be included on the independent evaluator's website ("IE Website").

As previously communicated, Georgia Power will need to conform any awarded APA or BTA to the specific technologies of the applicable bids and, potentially, the seller's organizational structure. Georgia Power will also need to negotiate certain BTA terms specific to the proposed technologies or facilities, such as Seller cancellation payment and performance guarantee liquidated damages. Therefore, if Georgia Power receives APA or BTA bids that advance to the Competitive Tier, Georgia Power will further negotiate specific contract terms and conditions with such APA and BTA bidders, as needed and as overseen by Commission Staff and the

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Independent Evaluator. However, the substantive contractual terms of the BTA will remain unchanged from the terms of the pro forma contract approved by the Commission.

Georgia Power respectfully requests Commission approval of this All-Source Capacity RFP for 2029-2031 and each of the pro forma contracts identified above. In addition, as described in Georgia Power's March 8, 2024 letter, Georgia Power worked diligently with Commission Staff to expedite the development of the All-Source Capacity RFP and requests approval of two shortened timelines as exceptions to Commission Rule 515-3-4-.04(3)(c)(3) and 515-3-4-.04(3)(e)(1)(ii).

If you have any questions regarding this filing, please call me at (404) 885-3779.

Sincerely,

Allison W. Pryor

Allison W. Pryor

Encl.



All-Source Capacity Request for Proposals for 2029–2031

#Month #Day, 2024

Issued by Georgia Power Company
241 Ralph McGill Boulevard
Atlanta, Georgia 30308
http://www.georgiapower.com

Administered by Accion, acting as the Independent Evaluator
https://gpc2029-2031all-sourcerfp.accionpower.com/

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SCHEDULE OF DEFINED TERMS AND RULES OF CONSTRUCTION

This All-Source RFP uses the defined terms identified in this Schedule, or in the body of this All-Source RFP, and the rules of construction identified in this Schedule.

2022 IRP: GPC's 2022 Integrated Resource Plan as approved by the Commission in Docket No. 44160.

2022 IRP Final Order: The Order from the 2022 IRP as approved by the Commission in Docket No. 44160.

AC: Alternating current.

Access Route: The suitable all-weather access route from the nearest public roadway to the Point of Interconnection that is acceptable to GPC and that must be always available to GPC (24/7/365(366)) throughout the IA term to facilitate GPC's construction, operation, or maintenance of the Interconnection Facilities or other related GPC activity.

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

Affected System Upgrade(s): 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 Facility. Each addition, modification, or upgrade will be constructed and owned by that Affected System.

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. A Person directly or indirectly owning 50% or more of the outstanding stock or other equity interest of another Person has "control" of that Person. The terms "controlling" and "controlled" have meanings correlative to "control."

Affiliate Bid Team: As defined in Commission Rule 515-3-4-.04(3)(d), any GPC Affiliate that intends to submit a Bid into this All-Source RFP, as well as any other Persons acting for that Affiliate or on its behalf in support of the development and submission of any Bid.

AGC: See *Automatic Generation Control*.

AIER: See *Associated Interchange Energy Rate*.

All-Source RFP: This All-Source Capacity Request for Proposals for 2029–2031.

Alternative Bid: Defined in Section 7.4.1 (*Alternative Bid*).

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

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

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

APA: See *Asset Purchase Agreement*.

ASC: The FASB Accounting Standards Codification.

Asset Purchase Agreement (APA): The Asset Purchase Agreement to be entered into by GPC and a Winning Bidder (or other Person identified as APA counterparty (i.e., Seller) as allowed by this All-Source RFP) proposing an Existing Resource.

Associated Interchange Energy Rate (AIER): The rate determined for each hour, based on the variable dispatch cost of the incremental resources that serve the collective obligations of the Southern Companies.

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

Awarded Contract: An executed PPA, APA, or BTA, as applicable, between GPC and a Seller (i.e., Winning Bidder).

Bid: As more fully delineated in Part 7 (*Submission Requirements*), each separate bid submitted into this All-Source RFP.

Bid Assignment: Defined in Exhibit F (*Bid Assignment Guidelines*).

Bid Book: Each Participant's private electronic file on the IE Website in which all Submission-specific documents submitted by the Participants are stored and a record of all IE Website communications are recorded.

Bid Due Date: The date and time specified for complete submission of Bids into this All-Source RFP, as shown in the Solicitation Schedule (Section 1.1.1 (*Solicitation Schedule*)) or, if applicable, as modified in accordance with All-Source RFP terms and conditions.

Bid Fee: The non-refundable $20,000 fee Bidder must submit with each Bid to defray costs of the RFP Process.

Bid Form: The electronic form found on the IE Website through which a Participant offers its Submission.

Bid Information: The ongoing status of any Bid or potential Bid, and any information submitted, exchanged, or discussed between the Bidder, Staff, the IE, and GPC (any exchange or discussion to occur in accordance with the guidelines of this All-Source RFP and Commission Rules).

Bid Period: The period from the Bid Period open date until the Bid Due Date, as shown in the Solicitation Schedule (Section 1.1.1 (*Solicitation Schedule*)).

Bid Security: Security provided by Bidder for each Bid that advances to the Competitive Tier in the form of: (i) cash; (ii) Surety Bond; or (iii) a Letter of Credit, in the amount required by Section 4.8 (*Bid Security*).

Bidder: As applicable, each Person contemplating submission of a Bid or submitting a Bid into this All-Source RFP.

Bidders' Conference: The conference held with GPC, Staff, and the IE for potential Participants and interested Persons to learn about the RFP Process and the draft RFP Documents.

Build Transfer Agreement (BTA): Build Transfer Agreement to be entered into by GPC and a Winning Bidder (or other Person identified as BTA counterparty (i.e., Seller) as allowed by this All-Source RFP).

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 Resource: Any reliable energy resource, whether a New Resource or Existing Resource, that can meet this All-Source RFP's firmness and dispatchability requirements.

CC: Combined cycle.

Certification: The Certificate of Public Convenience and Necessity GPC will seek from the Commission under O.C.G.A. § 46-3A-4 for each Awarded Contract and any winning Company-Owned Proposal.

Certified Diverse Supplier: Any contractor or supplier that falls into at least one of the following business groups: (i) Small Disadvantaged Business; (ii) Woman-Owned Business; (iii) HUBZone Business; (iv) Veteran-Owned Business; (v) Minority-Owned Business; (vi) LGBT-Owned Business; or (vii) Disability-Owned Business, as those groups are defined by United States Small Business Administration.

Change of Law: An applicable law enacted after the Submission deadline that will require Participant to install additional or different equipment at the Facility or to otherwise modify Facility engineering, procurement, or construction.

Change of Law Capital Expenditures: Additional capital expenditures (determined in accordance with GAAP) Participant must incur as a direct result of the Change of Law for: (i) the Facility to comply with the Change Law during the Term or Facility Design Life, as applicable; and (ii) additional or different Facility equipment, changes to Facility engineering, procurement, or construction, or other Facility modifications, as applicable. Capital expenditures will not constitute Change of Law Capital Expenditures unless GPC, using Prudent Industry Practices, would incur the same capital expenditures for its own facilities of the same type as the Facility as a direct result of the Change of Law (accounting for differences in facility capacity, location, and the frequency and duration of facility dispatch). For PPA Bids, Change of Law Capital Expenditures will be appropriately pro-rated based on: (a) the Term divided by the useful life of the applicable capital addition or modification; and (b) the Contracted Capacity divided by the total Facility capability. Change of Law Capital Expenditures must be net of any cost savings to Participant resulting from the capital addition or modification.

Closing: The closing of the APA or BTA transaction, as will be further described in the APA or BTA.

COD: See *Commercial Operation Date*.

Comment Period: The period during which Participants and interested Persons may submit, via the IE Website, comments regarding the RFP Documents and the RFP Process, as shown in the Solicitation Schedule (Section 1.1.1 (*Solicitation Schedule*)).

Commercial Operation: The Facility's generation of energy on a reliable basis according to Awarded Contract requirements.

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

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

Company-Owned Proposal: A GPC proposal to construct, own, operate, and maintain a Facility that can deliver a portion of the resources sought by this All-Source RFP.

Company-Owned Proposal Team (COP Team): Employees or representatives of GPC or Southern Company Services, Inc. who support the development and submission of any Company-Owned Proposal and who are identified on the Commission's website and the IE Website.

Competitive Tier: The most competitive Submissions that advance for further evaluation after the initial review in accordance with Section 8.3 (*Initial Review*).

Confidential Information: Business or technical information rightfully in the possession of either Party that derives actual or potential commercial value from not being generally known or readily ascertainable through independent development, or reverse engineering by Person(s) who can obtain economic value from its disclosure or use, including information furnished or disclosed to the other Party concerning Submissions into this All-Source RFP or discussions leading up to execution of an Awarded Contract, including the Awarded Contract itself. Participants must designate Confidential Information as confidential in writing on each page of a document contemporaneously with Participant'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 All-Source RFP or the Awarded Contract; (ii) was, at the time of the disclosure, already in the receiving Party's possession; (iii) is disclosed to the receiving Party by a third party who, to 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 that is required regarding the Project or Facility from any jurisdictional Governmental Authority, including, without limitation, all applicable environmental certificates, licenses, permits, and approvals.

Contracted Capacity: All the Facility capacity (in MW) to be provided under the PPA.

COP Team: See *Company-Owned Proposal Team*.

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

CT: Combustion turbine.

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

DC: Direct current.

Deficient Submission: Any Submission that fails to provide all required information or is otherwise non-compliant with this All-Source RFP.

Delay Damages: Liquidated damages, in amounts that will be stipulated in the Awarded Contract, to be paid by Seller for a failure to achieve Commercial Operation by the RCOD or Closing by the RCD, as applicable.

Delivery Commencement Date: The Commercial Operation Date and as further defined in the applicable pro forma PPA.

Diversity, Equity, and Inclusion (DEI): Participant's efforts to ensure that its workforce, contractors, and suppliers are fairly treated and include all groups, including historically underrepresented and marginalized groups.

Diversity, Equity & Inclusion Certificate: The certificate signed by a signing authority of Bidder in the form found in Exhibit G (*Diversity, Equity, and Inclusion Certificate*), that affirms Bidder's commitment to Diversity, Equity, and Inclusion.

Due Diligence Fee: Fees that may be required for the different phases of due diligence for APA or BTA Bids, as further described in Exhibit A (*Due Diligence Phases and Fees Overview (APA and BTA Bids Only*)).

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

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

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

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

Eligible Collateral: Either: (i) a Letter of Credit; (ii) cash deposited into a GPC Security Account by Seller; or (iii) a Seller Guaranty. However, at least 50% of any Eligible Collateral required under any Awarded Contract provision must be in the form of either a Letter of Credit or cash deposited into a GPC Security Account whenever a Seller Guarantor supplying a Seller Guaranty has an investment grade rating such that its senior

unsecured debt (or issuer rating if such Person has no senior unsecured debt rating) is not rated at least: (a) BBB by S&P, if rated by S&P; (b) Baa2 by Moody's, if rated by Moody's; and (c) BBB by Fitch, if rated by Fitch, respectively. For the purposes of the immediately preceding sentence, a Person is not required to have a senior unsecured debt rating (or issuer rating if such Person has no senior unsecured debt rating) from each of S&P, Moody's, and Fitch but must have the requisite senior unsecured debt rating (or issuer rating if such Person has no senior unsecured debt rating) as set forth above from at least two of the three Rating Agencies.

Energy Storage System (ESS): An on-Site energy storage system that is interconnected to the STT at the POI.

Environmental Assurance: The environmental information and compliance documentation (e.g., prior, current, or ongoing environmental studies, documents, assessments, surveys, corrective action plans, and natural resource inventories) that Bidder must submit to GPC by the deadline stated in the Solicitation Schedule (after the Bid advances to the Competitive Tier) to confirm that Bidder, the proposed Site, and the proposed ICF Site, if applicable, comply with the environmental standards required by applicable law and GPC.

Environmental Attributes: Either: (i) all fuel-related, emissions-related, air quality-related, or other environmental-related aspects, claims, characteristics, benefits, credits (including RECs), reductions, offsets, savings, allowances, efficiencies, certificates, tags, attributes, demand reductions, or similar products or rights (including all of those relating to greenhouse gases and all green certificates, green tags, renewable certificates, RECs, CO2 credits, and emission reduction credits, and all those that otherwise arise or result from the generation of energy from the 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 PPA Term or Facility Design Life, as applicable; 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 investment tax credit (ITC), production tax credit (PTC), or depreciation deduction; or (II) any grant in lieu of ITC or any similar financial payment or grant regarding the Facility.

Environmental Compliance Affidavit: A notarized affidavit, in the form found in Exhibit N (*Environmental Compliance Affidavit*), confirming that Bidder: (i) understands its obligation to comply with all applicable legal environmental standards and requirements regarding the Site; (ii) agrees to conduct further due diligence considering the factors presented in Exhibit M (*Environmental Site Assessment Requirements*) if the Bid advances to the Competitive Tier; and (iii) will avoid, minimize, mitigate, and as appropriate, permit and obtain any required regulatory authorization for any environmental impact, as required under applicable federal, state, or local law: (a) throughout the PPA Term; (b) until the Closing under an APA; (c) or until completion of Seller's BTA obligations, whichever applicable.

Environmental Site Assessment: The necessary assessment conducted by Bidder before submitting a Bid that, at a minimum, contemplates the factors delineated in Exhibit M (*Environmental Site Assessment Requirements*).

Escalating Pricing: Monthly pricing under the PPA that escalates each Annual Period.

ESS: See *Energy Storage System*.

ESS Submission: A Submission offering either a Standalone ESS or an ESS with Renewable Resource.

ESS with Renewable Resource: An ESS paired with a Renewable Resource.

ET: See *Eastern Time*.

Evaluation Team: The team preparing this All-Source RFP and evaluating Submissions in this All-Source RFP. The Evaluation Team comprises the Primary Evaluation Team and designated Specialized Technical Support Personnel.

Event of Default: A failure by Seller to perform or comply with a material term or condition of the Awarded Contract, as further defined in the Awarded Contract.

Existing Resource: A Facility that is in service before execution of an Awarded Contract.

Facility: The electric generation facility as described in the Submission (and as will be further described in the Awarded Contract), including any ESS and primary and auxiliary equipment and facilities installed at the Site necessary or used for the production, control, delivery, or monitoring of energy or for the extraction or collection of fuel. All equipment and facilities installed on Seller's side of the POI are considered part of the Facility, except for those that constitute Interconnection Facilities.

Facility Design Life: The useful life of a New Resource as of Commercial Operation under a BTA, or the remaining useful life of an Existing Resource, as of Closing under an APA, as applicable.

FASB: Financial Accounting Standards Board.

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

FERC Order 2023: Order No. 2023, "Improvements to Generator Interconnection Procedures and Agreements," adopted by FERC on September 6, 2023.

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

Firm Transmission Service: Transmission service that has: (i) been procured and is held by a Seller under the applicable open access transmission tariff on each applicable Electric System for the delivery of energy from the Facility to the Point of Delivery; and (ii) a priority equal to the highest level of firm transmission service available to any Person on that Electric System from: (a) COD and through the PPA Term; or (b) Closing and through the remainder of the Facility Design Life, as applicable.

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.

Generating Capacity: The generating capacity of the Facility, as specified by Participant.

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

Georgia Territorial Act: The Georgia Territorial Electric Service Act (O.C.G.A. §§ 46-3-1 through 46-3-15).

Governmental Authority: As applicable to the specific Person, facility, or event, any federal, state, local, or regulatory authority, administrative agency, commission, department, board, or court that has jurisdiction over the Person, facility, or event, or regarding this All-Source RFP or the applicable Awarded Contract.

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

GPC Contractor: A Person providing engineering, procurement, or construction services selected by the COP Team to assist with a Company-Owned Proposal to be submitted in this All-Source RFP.

Guarantor: A Person who, at the time of execution and delivery of its Guaranty: (i) is Creditworthy; (ii) is a Seller Affiliate; (iii) derives direct or indirect benefit from the transactions contemplated by the Awarded Contract; and (iv) is otherwise acceptable to GPC in GPC's sole discretion.

Guaranty: A guaranty provided by Guarantor that is substantially in the form of the Guaranty in the Exhibit titled *Form of Guaranty* in the applicable pro forma PPAs, BTA, or APA.

IA: See *Interconnection Agreement*.

ICF Site: The land on which GPC's Interconnection Facilities will be located.

IE: See *Independent Evaluator*.

IE Website: https://gpc2029-2031all-sourcerfp.accionpower.com.

Independent Evaluator (IE): The Accion Group, LLC, who reports to the Commission and is under contract with GPC to oversee this All-Source RFP, provide the IE Website, and serve as point of contact for all Participants.

Interconnection Agreement (IA): 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 Facilities: The specific transmission or distribution line and substation facilities 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 POI between the Facility and the Electric System.

Interconnection Limit: The maximum output amount of energy at the POI allowed by the Interconnection Agreement.

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

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

ITS Participant: Georgia Transmission Corporation, MEAG Power, or Dalton. As used in this All-Source RFP, ITS Participant excludes GPC.

kW: Kilowatt (AC).

Letter of Credit: An irrevocable standby letter of credit that is: (i) substantially in the form set forth in the Exhibit titled *Form of Standby Letter of Credit* of the pro forma PPAs, BTA, or APA; (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) 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) otherwise acceptable to GPC in GPC's sole discretion.

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.

MW: Megawatt (AC).

MWh: Megawatt-hour (AC).

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

New Resource: A Facility that is not yet fully constructed nor interconnected and capable of delivering energy to the POI at the time of Awarded Contract execution or Company-owned Proposal Certification.

Nominal Capability: The nameplate capacity of the Facility, representing the maximum output or performance under ideal conditions.

NOx: Nitrogen oxides.

NOx Allowances: Allowances required by any Governmental Authority or Consent for NOx emissions, as further described in the CC PPA.

O&M Costs: Operation and maintenance costs.

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

OATT: Open Access Transmission Tariff.

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

Participant: Bidder or the COP Team, as applicable. "**Participants**" refers collectively to Bidders and the COP Team.

Party or **Parties:** Either GPC or Bidder, or both.

Performance Security: Eligible Collateral delivered to GPC by Seller to secure Seller's performance under the Awarded Contract.

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

POI: See *Point of Interconnection*.

Point of Delivery (POD): Either: (i) the POI, if the Facility is interconnecting to the STT; or (ii) the Southern Transmission Interface identified in the Bid Form, if the Facility is interconnecting to an Electric System outside the SBAA.

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

PPA: Power purchase agreement to be entered into by GPC and a Winning Bidder (or other Person identified as PPA counterparty (i.e., Seller) as permitted by this All-Source RFP), in the form of the applicable pro forma PPA found on the IE Website and incorporated into this All-Source RFP by this reference.

PPA Term: The duration of the PPA (5, 10, 15, 20, 25, and 30 Annual Periods) proposed in a Bid, which will be stated in the PPA.

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

Primary Evaluation Team: Members of the Evaluation Team who oversee the development and administration of this All-Source RFP, evaluate all Submissions, and have access to all All-Source RFP data, including pricing.

Profile: The Renewable Resource's hourly generation (MW AC; 8760 hours per calendar year) in ET and unadjusted for Daylight Savings Time over the entire PPA Term or Facility Design Life, as applicable, and at the high side of the generator step-up transformer for a Facility interconnecting to the Southern Company Transmission System. The values must be chronological and must include the estimated degradation of the Facility's output over each Annual Period or Facility Design Life, as applicable.

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

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

PURPA: The Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 796 and 824a-3.

QF: See *Qualifying Facility*.

Qualifying Facility (QF): A qualifying cogeneration facility or qualifying small power production facility within the meaning of PURPA sections 201 and 210 and Part 292 of Title 18 of the United States Code of Federal Regulations.

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

RCD: *See Required Closing Date*.

RCOD: *See Required Commercial Operation Date*.

RECs: See *Renewable Energy Credits*.

Release List: The list of Submissions released from the RFP because they were determined to be Deficient Submissions or otherwise did not advance to or beyond the Competitive Tier.

Renewable Energy: The energy and all associated Environmental Attributes and Electrical Products produced by the Renewable Resource and delivered to the ESS or POI.

Renewable Energy Credits (RECs): Any 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, whether in effect at the Effective Date or any time during the PPA Term or Facility Design Life, as applicable.

Renewable Resource: A renewable generating facility that: (i) has or will have a POI on the STT; (ii) is at least 80 MW in size; and (iii) utilizes a sustainable, or renewable fuel.

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

Required Closing Date (RCD): The date stated in the APA or BTA, as applicable, as the date by which Closing must occur.

Required Commercial Operation Date (RCOD): The date by which the Facility must obtain Commercial Operation, as stated in the PPA.

Reserve List: The list of Submissions not included on either the Short List or the Release List that remain under evaluation and have the potential to advance to the Short List.

RFP: Request for Proposals.

RFP Documents: The main body of this document setting forth the rules and requirements of this All-Source RFP, together with all exhibits and the pro forma PPAs, APA, and BTA.

RFP Process: As defined in the RFP Rule.

RFP Rule: Commission Rule 515-3-4-.04(3).

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

RTE: See *Round-Trip Efficiency*.

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

SBAA: See *Southern Balancing Authority Are*a.

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

SDDC: See *Storage Device Design Capacity*.

SDDD: See *Storage Device Discharge Duration*.

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

Seller: A Winning Bidder who has executed an Awarded Contract with GPC.

SERC: The SERC Reliability Corporation, including any successor and subdivisions.

Short List: The list of Submissions that advance for further evaluation based on the results of the detailed evaluation and potential Awarded Contract execution.

Site: The physical location (i.e., real property) where the Facility is or will be located, as described in the Submission.

Site Control: Control of the Site by Seller in one of the following forms: (i) Seller owns the Site (evidenced by a warranty deed recorded in the county property records); (ii) Seller leases the Site (under a current binding

written agreement between Seller and the owner or lessor of the Site); (iii) Seller holds an option to purchase the Site (under a current binding written agreement between Seller and the owner of the Site); (iv) Seller holds an option to lease the Site (under a current binding written option agreement with the owner or lessor of the Site); or (v) Seller holds a current binding easement or license from the owner or lessor of the Site that grants Seller express rights to construct, install, operate, maintain, and repair the Facility at the Site throughout the PPA Term or Facility Design Life.

Site Control Affidavit: The notarized affidavit in the form found in Exhibit D (*Form of Site Control Affidavit and Landowner Confirmation*) that affirms Bidder has obtained Site Control for the PPA Term or Facility Design Life, as applicable.

SO2 Allowances: Allowances required by any Governmental Authority or Consent for SO_2 emissions, as further described in the pro forma CC PPA or pro forma CT PPA, whichever applicable.

Solicitation Schedule: The schedule for this All-Source RFP set forth on the IE Website and as provided in Section 1.1.1 (*Solicitation Schedule*), which may be revised in accordance with All-Source RFP terms and conditions.

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

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

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

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

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

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

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

Specialized Technical Support Personnel: Individuals who have specialized knowledge that is used: (i) as a member of the Evaluation Team to develop a discrete aspect of this All-Source RFP or to support a discrete function of the RFP Process; or (ii) as a member of the COP Team to support a discrete aspect of the development of a COP.

Staff: Staff members of the Commission involved in this All-Source RFP.

Standalone Energy Storage System (Standalone ESS): An energy storage system without an associated Renewable Resource.

Station Service: Energy that is used to serve the electrical requirements of the Facility and includes the transformer losses and line losses between the Facility and the Electric System. For an ESS, Station Service includes all energy required to operate and maintain the ESS (e.g., HVAC), except that the energy used to charge and discharge the ESS is not included within Station Service.

Stipulation: The approved provision in the 2022 IRP Final Order that sets forth a supply-side plan and included approval of GPC's All-Source RFP.

Storage Device Design Capacity (SDDC): The amount of ESS storage capacity allocated to GPC under the PPA, as will be designated in the PPA.

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

STT: See *Southern Transmission Territory.*

Submission: A Bid or Company-Owned Proposal, as applicable. "**Submissions**" refers collectively to Bids

and Company-Owned Proposals.

Surety Bond: A bond issued by a Creditworthy Person or Person rated at least A- by AM Best, if rated by AM Best, that is substantially in the form of the Surety Bond available on the IE Website, and that is otherwise acceptable to GPC.

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 provides transmission service under a tariff.

Transmission Service Request (TSR): A request for Firm Transmission Service.

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 the event of Awarded Contract termination before Commercial Operation or Closing, as applicable.

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

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

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

Winner's Fee: The fee assessed for each winning Bid to cover the IE cost and a portion of the costs to administer this All-Source RFP.

Winning Bidder: Each Bidder that is offered a PPA, BTA, or APA to execute with GPC. A Winning Bidder will be identified as "Seller" in the Awarded Contract.

Rules of Construction:

In this All-Source RFP: (i) whenever the term "**include**," "**including**," "**e.g.**," or "**i.e.**" is used, in connection with a listing of items included within, or as an example of, the prior reference, the listing will be interpreted as illustrative only and not as a limitation on, or as an exclusive listing of, the items included in the prior reference (e.g., "**include**" means "include, but is not limited to"; "**including**" means "including, without limitation"); and (ii) "**or**" means either or both (i.e., "A or B" means "A or B or both A and B").

Unless otherwise specified, reference to: (a) a Party or Person includes any allowed successor or assign; (b) a Governmental Authority includes any authority succeeding to the same function; (c) an agreement or document includes any exhibit, attachment, appendix, or schedule; and (d) an applicable law, agreement, document, policy, procedure, standard, or provision is to the law, agreement, document, policy, procedure, standard, or provision as modified, amended, supplemented, or restated, and then-effective or current.

A defined term may be singular or plural, as the context requires. Captions are for convenience only and do not affect interpretation.

All-Source Capacity Request for Proposals for 2029-2031

Georgia Power Company's 2022 IRP identified a need for additional Capacity Resources. On July 21, 2022, the Commission issued the 2022 IRP Final Order concerning the 2022 IRP. The 2022 IRP Final Order amended and approved the Stipulation that requires GPC to conduct an all-source solicitation to address capacity needs identified by GPC.

GPC estimates that up to 8,500 MW of Capacity Resources are necessary to satisfy GPC's capacity needs, as reflected in the table below. This estimate is based on expiration of capacity power purchase agreements, potential retirement of certain GPC generation units, and projected load growth. Final capacity needs, including the period when capacity is needed, are contingent upon GPC's decisions regarding retirement and load growth and will be subject to Commission review and approval.

GPC issues this All-Source RFP to procure Capacity Resources that meet GPC's identified capacity needs, including: (i) Standalone ESS with grid charging capability; (ii) ESS with Renewable Resource and grid charging capability; and (iii) thermal generation (e.g., natural gas or oil-fired).

GPC may revise its capacity need forecast to reduce, eliminate, or increase the amount of capacity and energy sought, or, in consultation with the Staff and IE, change the Solicitation Schedule at any point during the RFP process. Further, the RFP Documents are subject to modification or withdrawal at any time in the sole discretion of GPC.

Winter	Estimated Capacity Needs from 2023 IRP Update (MW)
2028/2029	2,280
2029/2030	3,247
2030/2031	5,960

PART 1. RFP SOLICITATION SCHEDULE AND FRAMEWORK

1.1. RFP Solicitation Schedule.

1.1.1. Solicitation Schedule. The Solicitation Schedule below outlines the activities to be conducted for this All-Source RFP. After consultation with Staff and the IE, GPC may revise the Solicitation Schedule, as necessary, and post an updated Solicitation Schedule on the IE Website. The most current Solicitation Schedule will be maintained on the IE Website throughout the solicitation period and supersedes the schedule below.

Tentative Solicitation Schedule (All-Source RFP)[1]	
Activity	**Date**
RFP Service Date	Thursday, December 14, 2023
Draft RFP Issued on IE Website; RFP Public Comment Period Opens	Monday, February 26, 2024
Bidders' Conference	Monday, March 4, 2024
Draft pro forma PPAs Issued on the IE Website	Friday, March 8, 2024

[1] The dates in this Solicitation Schedule are tentative and subject to change from time to time as provided in Section 1.1.1 (*Solicitation Schedule*) above.

Tentative Solicitation Schedule (All-Source RFP)[1]	
Activity	**Date**
Suggested Southern OATT LGIP Interconnection Request Date	Friday, March 15, 2024
RFP Public Comment Period Closes (RFP and PPAs)	Friday, March 29, 2024
FERC Order No. 2023 Interconnection Queue Request Cluster Study Date	Thursday, April 4, 2024
Recommended NOI Submittal Date	Friday, April 5, 2024
Draft pro forma APA/BTA Documents issued on the IE Website	Friday, May 10, 2024
Public Comment Period on pro forma APA/BTA Documents Closes	Monday, May 20, 2024
File for Commission Approval of RFP Documents	Thursday, May 23, 2024
Anticipated Commission Approval	Tuesday, June 18, 2024
Notice of Desire to Bid Other Technology Proposal Deadline	Wednesday, June 19, 2024
Anticipated RFP Issuance Date	Thursday, June 20, 2024
Company-Owned Proposal and Affiliate Bid Due Date	Thursday, July 18, 2024
Bid Due Date and Bid Fees Due	Friday, July 19, 2024
Phase One Due Diligence Payment Due for APA/BTA Bids	Friday, July 19, 2024
Competitive Tier Determined; Non-Competitive Bids Released	Monday, October 14, 2024
Phase Two Due Diligence Begins and Initial Phase Two Due Diligence Payment Due for APA/BTA Bids	Monday, November 4, 2024
Bid Security Due	Monday, November 4, 2024
Environmental Assurances Due	Friday, December 13, 2024
Refreshed Submission Process for Competitive Tier Opens	Tuesday, January 14, 2025
Refreshed Submissions for Competitive Tier Due	Tuesday, January 28, 2025
Second Phase Two Due Diligence Payment Due for APA/BTA Bids	Tuesday, January 28, 2025
Short List and Reserved List Determined; Remaining Bids Released	Friday, May 16, 2025
Phase Three Due Diligence Begins and Phase Three Due Diligence Payment Due for APA/BTA Bids	Friday, May 23, 2025
Awarded Contract(s) Executed; Reserve List Submissions Released	Monday, June 30, 2025

Tentative Solicitation Schedule (All-Source RFP)[1]	
Activity	**Date**
GPC to File Executed Awarded Contracts with the Commission	Monday, July 7, 2025
Anticipated RFP Certification Order from Commission	November 2025
Earliest In-Service Date	January 1, 2026
Closing Date for APAs	No later than 90 Days after Certification
Latest Closing Date for BTAs	Monday, April 29, 2030
Winter 2029 In-Service date	Thursday, November 30, 2028
Winter 2030 In-Service date	Friday, November 30, 2029
Winter 2031 In-Service date Latest Commercial Operation Date for PPAs	Saturday, November 30, 2030

1.1.2. Affiliate Bid and Company-Owned Proposal Submission Deadline. Any Company-Owned Proposal and Affiliate Bid must be submitted through the IE Website by 12:00 p.m. (Noon) ET on the date shown in the Solicitation Schedule. Participant must initiate Company-Owned Proposal submission before 10:00 a.m. ET on the Company-Owned Proposal due date. Any Company-Owned Proposal submitted after the deadline will not be accepted.

1.1.3. Bid Due Date/Time. Each Bid must be submitted through the IE Website by 12:00 PM (Noon) ET on the date shown in the Solicitation Schedule. Late Bid submissions will not be accepted. To ensure timely Bid submittal and fair treatment of all Bidders, Bidders must initiate submission of each Bid no later than the Bid Due Date and by the time identified on the IE Website. Each Bidder will receive an email acknowledgment for each Bid submitted.

1.2. Independent Evaluator.

1.2.1. Purpose and Role of IE. GPC is utilizing the IE to oversee this All-Source RFP and to serve as the point of contact for all Participants. As provided in the RFP Rule, the IE serves to maintain fairness, transparency, and consistency in the RFP Process, which helps to prevent claims of favoritism in the evaluation and advancement of Submissions. Commission Rules require GPC to retain an IE, who is selected by and reports to the Commission in carrying out its duties and assisting with development of this All-Source RFP and evaluation of Submissions.

1.2.2. The IE Website. The IE Website serves as the required forum for all RFP communication among the Evaluation Team, Participants, and all interested Persons. Any Participant or interested Person may only communicate with GPC, the IE, or Staff regarding this All-Source RFP through the IE Website. If any Participant or interested Person directs questions regarding any RFP information to Staff or GPC, as applicable, will direct the Participant or interested Person to the IE Website to ensure all communications are documented and treated consistently, fairly, and transparently. If a Participant attempts to make contact outside the process described in this All-Source RFP, Participant will be directed to the IE Website for all information and communication and will be reported to the IE for a violation of this All-Source RFP requirement. Repeated violation of this requirement may result in the Bidder being prohibited from participating and all Bids from the Bidder being disqualified.

1.3. Standards of Conduct.

1.3.1. Standards of Conduct Regarding Affiliate Bids. GPC Affiliates may submit Bids in response to this All-Source RFP. Commission Rule 515-3-4-.04(3)(d) incorporates measures to segregate the Evaluation Team and any Affiliate Bid Team. The lists identifying the Evaluation

Team and, if applicable, Affiliate Bid Team members are found on the Commission's website under Docket No. 55268 and on the "Documents" page of the IE Website. Each Participant is encouraged to review these lists. Except when communication is facilitated by Staff and monitored by the IE, each Bidder is prohibited from discussing this All-Source RFP and any related documents with the Evaluation Team. GPC implemented specific controls to ensure RFP-related information is confined to the appropriate team. Additionally, before receipt of Bids, GPC, Staff, and the IE will implement procedural steps to ensure that all Bids from Affiliate Bid Teams or from non-Affiliates are evaluated using a common methodology applied in a manner that ensures that any Affiliate Bids do not receive any advantage in the evaluation. In all instances, an Affiliate Bid Team will be treated as a third-party Bidder.

1.3.2. Standards of Conduct for Company-Owned Proposals Submitted by the Company-Owned Proposal Team. To meet its identified capacity needs, GPC may develop and submit one or more Company-Owned Proposals in response to this All-Source RFP for Facilities that would be owned and operated by GPC. GPC must submit any Company-Owned Proposal directly to the IE by the date shown in the Solicitation Schedule. Company-Owned Proposals may include partnership arrangements or agreements between GPC and third parties or contractors that may collaborate to submit a joint proposal.

A. GPC Contractors. To ensure fairness to all Participants, the COP Team will not share with a GPC Contractor, or potential GPC Contractor, any non-public information about the RFP Process. No GPC Contractor or GPC Contractor Affiliate is allowed to submit a Bid in this All-Source RFP for the same Facility submitted in any Company-Owned Proposal.

B. GPC Internal Communications. While not required under Commission Rules, GPC voluntarily imposes the Affiliate communications restrictions set out in Commission Rule 515-3-4-.04(3) to restrict communications between the Evaluation Team and the COP Team, except as noted regarding Specialized Technical Support Personnel in Section 1.3.2.C (*Company-Owned Proposal Team and Specialized Technical Support Personnel*). No COP Team member may share with any Primary Evaluation Team member any Company-Owned Proposal information related to the costs or specific characteristics of any aspect of any Company-Owned Proposal or its proposed Facility, except for communications facilitated by the IE and Staff and necessary for evaluation of a Company-Owned Proposal. In addition to the requirements of Commission Rule 515-3-4-.04(3)(d) establishing standards of conduct regarding any Evaluation Team member and any Affiliate Bid Team member, no COP Team member will be a member of any Affiliate Bid Team nor communicate with any Affiliate Bid Team member in violation of Commission Rule 515-3-4-.04(3)(d). GPC will not tolerate conduct or communication regarding the development of any Company-Owned Proposal by the COP Team that would unfairly influence the design or evaluation processes for this All-Source RFP.

C. Company-Owned Proposal Team and Specialized Technical Support Personnel. The COP Team will develop any Company-Owned Proposal in a manner that preserves the integrity and fairness of the RFP Process for all Participants. Due to their functional expertise and breadth of job responsibilities, limited Specialized Technical Support Personnel may need to be involved both with development of a Company-Owned Proposal and with certain aspects of this All-Source RFP. The RFP information provided to Specialized Technical Support Personnel is limited to the scope of their job responsibilities. Specialized Technical Support Personnel serving as members of both the Evaluation Team and the COP Team will not be allowed to determine the total economic benefit of Submissions. GPC voluntarily posted a list of the COP Team members on the IE Website, and the Evaluation Team and the COP Team lists will separately identify any Specialized Technical Support Personnel who serve on both teams.

1.4. Development of this All-Source RFP.

1.4.1. Draft RFP Documents. Consistent with Commission Rule 515-3-4-.04(3)(e), GPC prepared the initial draft of this All-Source RFP with the consultation and input of Staff and the IE.

The draft RFP Documents will be posted to the IE Website by the date shown in the Solicitation Schedule.

1.4.2. Comment Period. The Solicitation Schedule provides the dates and duration of the Comment Period. Any Bidder or interested Person desiring to submit written comments on any aspect of this All-Source RFP must do so through the IE Website. If any Person commented about or offered a substantive change to the RFP Documents, the commenter will be prompted to provide a mark-up of the applicable section showing its proposed changes, along with the rationale for the suggested change, for GPC's consideration. The Evaluation Team, Staff, and IE will review all comments received. Following the Comment Period, the Evaluation Team will aggregate common themes from the comments received and provide responses to the IE for posting on the IE Website for the benefit of all Bidders and interested Persons.

1.4.3. Bidders' Conference. The Bidders' Conference was held virtually on the date shown in the Solicitation Schedule. The Bidders' Conference allowed any potential Participant or interested Person the opportunity to ask questions concerning the RFP Process or the draft RFP Documents with GPC, Staff, and IE. Any Participant or interested party must have registered for the Bidders' Conference on the IE Website. A recording of the Bidders' Conference, the presentation materials, and written responses to all questions submitted during the Bidders' Conference will be posted on the IE Website after the Bidders' Conference.

1.4.4. Frequently Asked Questions; Question and Answers. There is a tab on the IE Website for frequently asked questions ("**FAQ**"). Each Participant should review the FAQ before submitting a question on the IE Website because the question may be addressed in the FAQ. Throughout the RFP Process, a Participant may submit questions via the Question and Answer ("**Q&A**") tab on the IE Website. When a Participant submits a question via the Q&A portal, the identity of the Participant asking the question is known to the IE and Staff.

(i) Conflicts. Both the Q&A and FAQ documents are publicly available and are sources of information available to every Participant and interested Person. After the Commission approves this All-Source RFP, terms and conditions included in the final RFP Documents will supersede conflicting information, if any, included in the FAQ or Q&A.

1.4.5. Final RFP Documents Filed for Commission Approval. In accordance with the Solicitation Schedule, GPC will file with the Commission proposed final versions of the RFP Documents for Commission approval. After approval by the Commission: (i) all registered users of the IE Website will be notified by email of the approval; (ii) a copy of the Bid Form and a list of required documents will be posted on the Documents page of the IE Website; and (iii) the final, approved version of the RFP Documents will be posted to the Commission's website under Docket No. 55268 and the IE Website. Once approved, all concepts and material terms of the RFP and pro forma PPAs are non-negotiable. Each Submission must conform in all material respects to the applicable provisions of the Commission-approved RFP. Each Bidder must thoroughly review, be familiar with, and agree to the terms and conditions of: (i) the applicable Commission-approved pro forma PPAs, if submitting a PPA Bid; (ii) the Commission-approved APA, if submitting an APA Bid; and (iii) the Commission-approved BTA, if submitting a BTA Bid. The Commission-approved pro forma PPAs will be posted on the IE Website and the Commission's website. Bidder will not be permitted to make any substantive or material change to a pro forma PPA, APA, or BTA, and only non-material clarifications or Facility or Site-specific changes (as described in Section 7.5.7.B (*Material Conformance*)) will be considered.

PART 2. PRODUCTS AND RESOURCES SOUGHT IN THIS ALL-SOURCE RFP

2.1. Products Sought. GPC seeks offers to sell capacity and energy from Capacity Resources that can commence delivery in the Winter 2029 – Winter 2031 timeframe (December 2028 – December 2030). Participant may propose a Capacity Resource that is available earlier than Winter 2029, but no earlier than January 1, 2026, and GPC will determine if the proposed option

is an economical option that meets customer needs. A Submission may offer any reliable energy source that can meet the firmness and dispatchability requirements of this All-Source RFP, including but not limited to: (i) Standalone ESS with grid charge capability and a minimum duration of 4 hours; (ii) ESS with Renewable Resource, with grid charge capability and a minimum duration of 4 hours; and (iii) thermal generation (natural gas, oil-fired, etc.).

2.1.1. Other Technology. If Bidder desires to submit a Bid comprised of equipment utilizing other technology that is not described in Section 2.1 (*Products Sought*), including any demand-response technologies (each, an "**Other Technology**"), Bidder must contact the IE through the IE Website by no later than the Other Technology Proposal Deadline set forth in the Solicitation Schedule. Upon request, Bidder must provide information to the IE regarding the Other Technology. The IE will research and review Bidder's proposed Other Technology and discuss findings with Staff and the Evaluation Team. After the IE completes its research, review, and discussions, the IE will advise Bidder whether a Bid utilizing Bidder's proposed Other Technology will be accepted as a Bid that meets the requirements of this All-Source RFP. GPC will not consider for this All-Source RFP non-dispatchable technologies, including: (i) third-party aggregators; or (ii) other demand response options that do not: (a) meet the minimum Facility Size parameters described in Section 3.2.1 (*Facility Size Parameters*) at each Site; or (b) allow firm control of the demand response technology and associated infrastructure solely by GPC via AGC.

2.2. Facility Ownership Structures. Under this All-Source RFP, Bidders may submit Bids proposing one of two ownership structures for Facilities:

2.2.1. Seller-Owned Facilities. GPC will accept Bids for Facilities where Seller will retain Facility ownership. The Awarded Contract that a Winning Bidder would execute would be a PPA, where GPC would have exclusive rights to the Facility's capacity.

2.2.2. GPC-Owned Facilities. GPC will accept Bids for Facilities comprising Capacity Resources where Bidder proposes to transfer to GPC Facility ownership. The Awarded Contract that a Winning Bidder would execute with GPC would be an APA or a BTA.

A. Consideration of APA/BTA Bids. GPC will consider APA and BTA Bids for Capacity Resources that can interconnect to the STT. A BTA Bid must offer a Capacity Resource to be located in the state of Georgia and 100% ownership of that Capacity Resource. GPC will consider offers for partial ownership of or partial unit(s) of an Existing Resource that is a CC or CT. GPC will not consider offers for partial ownership of or partial unit(s) of a New Resource.

B. APA/BTA Bid Requirements. A Bidder offering an APA/BTA Bid must submit the same forms as a PPA Bidder, but an APA/BTA Bidder must also complete additional questions, including the questions on the questionnaire found in Exhibit C (*Additional Bid Information and Questionnaire*), which indicates the information GPC must receive to perform necessary due diligence.

C. APA/BTA Bid Evaluation. APA/BTA Bids will be evaluated alongside PPA Bids and Company-Owned Proposal(s). If an APA/BTA Bid advances to the Competitive Tier, the evaluation of the APA/BTA Bid requires additional due diligence.

D. Generating Resource and Business Entity Purchase. If an APA Bid makes the Short List of competitive Submissions, and even though GPC is likely only interested in the purchase of the Facility itself, GPC may also consider purchasing the business entity that owns the Existing Resource, subject to reaching acceptable terms and conditions. GPC may ask the APA Bidder to submit an offer allowing GPC to purchase the business entity that holds the Existing Resource. If the APA Bidder chooses to offer the business entity for purchase, GPC will have the right to proceed with the purchase of either the Existing Resource or the Existing Resource together with the business entity. GPC will not consider

APA Bids for business entities unless the APA Bid for the Existing Resource advances to the Short List.

E. Winning Bid APA/BTA Execution. If an APA/BTA Bid advances as a winning Bid, APA/BTA execution will occur in accordance with the Solicitation Schedule. The Bidder and GPC must agree on a transaction closing date as soon as practicable once the parties obtain the required regulatory approvals.

2.3. Bids for Existing Resources or New Resources. Under this All-Source RFP, Bidders may submit Bids for both Existing Resources and New Resources. The Awarded Contract for:

(i). An Existing Resource would be in the form of either an APA or pro forma PPA, depending on whether GPC or Seller would be the ultimate owner of the Existing Resource;

(ii). A New Resource that has not been constructed, but that would ultimately be owned by GPC, would be in the form of a BTA; or

(iii). A New Resource that has not yet been constructed, but that would ultimately be owned by Seller, would be a PPA in the form of one of the pro forma PPAs.

2.4. ESS Submissions. GPC will consider an ESS resource structured as: (i) Standalone ESS with grid charging capability; or (ii) ESS with Renewable Resource, with grid charging capability. In addition to the subsections that immediately follow, the pro forma ESS with Renewable Resource PPA, pro forma ESS PPA, and the additional guidance for ESS Submissions in Exhibit L (*Additional Guidance for ESS Submissions*) provide the parameters for the acceptable and applicable use of an ESS in this All-Source RFP. GPC's evaluation of an ESS Submission in this RFP will be appropriately focused upon the capacity use of the ESS, which is to ensure system reliability.

2.4.1. Degradation. GPC is not responsible for any degradation of any Facility over the Term, whether because of GPC scheduling, charging, or discharging of energy. As set forth in pro forma Standalone ESS PPA and pro forma ESS with Renewable Resource PPA, and as applicable to all generating types, the ESS is subject to monthly and annual performance metrics and must maintain the guaranteed Storage Device Design Capacity and guaranteed Storage Device Discharge Duration for the PPA Term.

2.4.2. Operating Policy. Any Participant offering an ESS Submission must be familiar with, and will be expected to comply with, Southern Company Transmission's *Operating Policy for Inverter-Based Electric Storage Resources Interconnecting to the Southern Companies' Transmission System*, as appropriate, which may be found at: https://www.oasis.oati.com/woa/docs/SOCO/SOCOdocs/Inverter-Based_Electric_Storage_Operating_Policy.pdf.

2.4.3. Standalone ESS. A Participant offering a Standalone ESS must provide: (i) a description of the ESS; (ii) if offering a PPA, the plan to maintain the ESS to ensure the ESS performs as evaluated for the PPA Term; (iii) the guaranteed Storage Device Design Capacity (AC); (iv) an annual schedule of the guaranteed Round-Trip Efficiency for the PPA Term or Facility Design Life, as applicable; and (v) any other information required by the Bid form. GPC must have the exclusive right, without penalty, to discharge and charge the ESS by dispatching it in accordance with Section 3.5.1 (*AGC*). To ensure GPC can toll the energy, a Standalone ESS must be interconnected to, and solely charged from, the STT. GPC will provide (toll) all energy required to charge a Standalone ESS, but Seller will be solely responsible for Station Service.

2.4.4. ESS with Renewable Resource. In addition to the information required by Section 2.4.3 (*Standalone ESS*), an ESS with Renewable Resource Submission must also include: (i) a description of the Renewable Resource (including the generation type of the Renewable Resource (e.g., solar panels, wind turbines)); (ii) the total expected capacity (AC) from the Renewable Resource; and (iii) a Profile reflecting the Renewable Resource, to demonstrate the charging contribution of the Renewable Resource for the ESS.

2.4.5. Additional ESS Guidance. Critical guidance concerning the required parameters for an ESS Facility charging from the Renewable Resource (as applicable), grid charging, and deliverability parameters, are outlined in Exhibit L (*Additional Guidance for ESS Submissions*).

PART 3. KEY PROJECT REQUIREMENTS

3.1. PPA Term, Facility Design Life, RCOD, and RCD.

3.1.1. PPA Term and Facility Design Life. GPC will consider Bids for: (i) PPAs with a PPA Term of 5, 10, 15, 20, 25, or 30 Annual Periods, at Bidder's option; (ii) APAs for Facilities with a Facility Design Life of at least 10 years; and (iii) BTAs with a Facility Design Life appropriate with the technology type and consistent with Prudent Industry Practices. GPC will evaluate Bids under the methodology outlined in Exhibit H (*Overview of Evaluation Methodology*).

3.1.2. RCOD and RCD. Under the 2022 IRP Final Order, GPC seeks Capacity Resources with in-service dates in or before 2030. Each Bidder must indicate the RCOD or RCD, as applicable, in its Bid, and the date must be in accordance with the Solicitation Schedule. GPC may decline to enter into a PPA, APA, or BTA with any Bidder if, in the opinion of GPC, in consultation with the IE and Staff, the transmission facilities cannot be constructed in time to achieve Commercial Operation or Closing by the date set forth in the Solicitation Schedule. ESS Bidders must provide a Profile(s) for each Bid that begins on the RCOD or the RCD, as applicable. Bidders may consult the Southern Companies' Seller Interconnection Business Practices document posted on OASIS for information related to interconnection activity timeframes and limitations. If Seller fails to achieve Commercial Operation or Closing by the RCOD or RCD, as applicable, Seller must pay Delay Damages to GPC under the Awarded Contract. Delay Damages will be calculated in accordance with the applicable Delay Damages table in Exhibit E (*Summary of Fees, Costs, Security, and Deadlines*), Attachment 2 (*Delay Liquidated Damages Summary*).

3.2. Facility Size and Output.

3.2.1. Facility Size Parameters. Except for any QF participating in this All-Source RFP under Part 9 (*Qualifying Facilities*) or an ESS as described in Section 3.2.1.A (*ESS Submissions*), a proposed Facility must be between 80 MW and 1,200 MW in size. If a Submission offers multiple units located on the same Site, each unit may be sized less than 80 MW so long as, when combined, the minimum Facility size is at least 80 MW and all units deliver to the same Point of Delivery. A Participant cannot offer multiple units to be located on different Sites. If Participant offers multiple units in a single Submission, the Submission must indicate the size of each unit and whether each unit may advance separately at the pricing stated in the Submission, including the dollar per kilowatt ($/kW) annual capacity price stated in the Submission. The Submission must clearly state if units can or cannot advance separately or in combinations. If Participant desires to offer different pricing for different unit combinations, the Submission must specifically identify this pricing.

A. ESS Submissions. A proposed ESS must have a Storage Device Design Capacity of at least 80 MW at the POI and a minimum Storage Device Discharge Duration of at least four hours. The Storage Device Design Capacity must be no more than 500 MW at the POI. An evaluated capacity contribution will be assigned to each configuration. An ESS must have grid charging capability.

3.2.2. Partial Output Bids.

A. Existing Resources.

(i). CC/CT: For an Existing Resource that is a CC or CT, GPC will consider Bids that offer less than 100% entitlement to the full output capability of the Capacity Resource (PPA) or partial ownership of the Capacity Resource (APA Bids).

(ii). ESS: Each ESS PPA and APA Bid must offer 100% entitlement to the full output capability of the Capacity Resource.

B. New Resources. For a New Resource, each Bid must offer full ownership (BTA Bids) or 100% entitlement to the full output capability (PPA Bids) of the Capacity Resource.

3.2.3. GPC Consent Required for Facility Changes. A Winning Bidder must obtain GPC's written consent before making any material change to Facility design, performance, or output (as specified in the Bid and considered by GPC in Bid evaluation).

3.3. Location of Facilities.

3.3.1. Facility Location. GPC will accept Submissions for a Facility located within the STT, so long as the Facility (i) can deliver energy to GPC in accordance with one of the interconnection options set forth in Exhibit B (*Interconnection and Delivery Requirements*); and (ii) if offered as a BTA Bid, is located in the State of Georgia. Except for ESS PPA Bids, GPC will also accept PPA Bids to deliver energy and capacity from a Facility located outside of the STT, so long as the Facility can deliver energy to a Southern Transmission Interface and otherwise meets RFP requirements, including AGC. A Bidder may not submit a Bid that locates the Facility on GPC property. Only a Company-Owned Proposal may propose a Facility on GPC property.

A. ESS with Renewable Resource Location. Any Renewable Resource included as part of an ESS Submission must interconnect to the same POI as the ESS.

3.4. Transmission Interconnection. Each Bidder is responsible for determining all transmission interconnection and delivery-related rules, practices, and policies with which it must comply, as further detailed in Exhibit B (*Interconnection and Delivery Requirements*). Each Bid must comply with one of the interconnection options identified in Exhibit B (*Interconnection and Delivery Requirements*).

3.4.1. New Resources. Each Participant proposing a New Resource must propose a discrete POI for its Facility. The proposed POI must be consistent with the expected point of electrical interconnection that would be established if Participant were currently applying for interconnection. GPC (through the IE) may suggest a different POI (regarding location or voltage) if it would result in more favorable economic consideration of the Submission. Participant will be responsible for all equipment necessary to interconnect the Facility to the Interconnection Facilities at the POI. All transmission facilities beyond the proposed POI (into the network transmission grid) will be owned by the Transmission Service Provider.

3.5. Dispatchability. Capacity Resources offered in this All-Source RFP must be fully dispatchable and available to meet GPC's scheduling instructions for the PPA Term or Facility Design Life, as applicable, which means the Facility can flexibly adjust its output in response to GPC's scheduling instructions, subject to any technical limit or other requirement stated in the Awarded Contract. Preference may be given to Submissions that offer shorter unit commitment notification and greater scheduling flexibility.

3.5.1. AGC. Because of their expected use and cost-effectiveness, each Capacity Resource offered through a Bid for full output of the Capacity Resource must be capable of operating on Automatic Generation Control, including any Renewable Resource offered as part of an ESS Submission. Seller will be responsible for conforming to GPC's requirements to integrate AGC functionality and for all costs to make the Facility respond to GPC's AGC signals. GPC will have the right, but not the obligation, to dispatch the Facility in the AGC mode. Each Bid must include the cost of the operation in its pricing. For PPA Bids involving Facilities that are not connected to the STT, Bidders should verify dynamic transfer capability and protocols with the Southern Company Transmission System to ensure proper telemetry communications in accordance with the Southern OATT.

3.6. Availability. GPC will rely, in part, on the contracted capacity and energy supplied under a PPA to provide dependable and reliable electric service to meet the needs of its customers.

Accordingly, GPC will require stringent protection for GPC and its customers against failures by the Seller to deliver Contracted Capacity and energy in accordance with the PPA.

3.6.1. Guaranteed Availability. Any PPA will contain provisions that require Seller to forfeit a portion of the capacity payment for Facility availability below 96% (calculated on a seasonal or monthly basis, as the case may be). After taking scheduled maintenance outages and Alternate Resource delivery into account, availability during any monthly period that is below 75% will result in a 100% forfeiture of the monthly capacity payment. Bidder may review the applicable pro forma PPA for more information regarding the availability calculation and adjustments to the capacity payment (which may be determined by replacement costs). In addition, a PPA Event of Default will occur if the availability remains below 60% for a certain extended period as specified in the PPA.

3.7. Multiple Modes of Operation. For a PPA Bid offering a Facility with multiple modes of operation, Bidder must specify the guaranteed nominal capacity of each mode and quote a single capacity Bid price for the entire output of the Facility. If during any Annual Period the capacities designated by mode are different from their respective guaranteed nominal capabilities by mode, an adjustment to the capacity payment will be made in a manner that reflects the value of each mode to GPC. The adjustment is described, for example, in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*) of the pro forma CC PPA. If during any Annual Period the capacities designated by mode match their respective guaranteed nominal capabilities by mode, the capacity payment will match the single capacity Bid price.

3.7.1. APA/BTA Bids. For an APA or BTA Bid with multiple modes of operation, a Bidder must provide the expected nominal capacity output for each mode.

3.8. Firmness of Proposed Resources. To be considered responsive, a Submission must demonstrate an appropriate level of firmness, which means the Facility must deliver capacity for the duration of any period of guaranteed commitment in accordance with GPC's scheduling instructions, even under adverse conditions. GPC's evaluation will assess the reliability and economic value of limits indicated in the Submission. Each Submission must propose to provide the proposed capacity and energy to GPC from specific, dedicated resource(s) on an unencumbered, first-call basis and priority.

3.9. Demineralization. The use of demineralized water supply for a resource should not limit the operations or delivery of capacity. CCs operating on natural gas should be able to support at least 14 hours of full load generation plus 10 hours of full pressure generation (24 hours of total operation). Demineralized water intended for use in conjunction with fuel oil operation should match the specified storage capacity for fuel oil in Section 3.10 (*Fuel/Energy Plan*). Bidder must also have adequate demineralized water replenishment capabilities at the Facility.

3.10. Fuel/Energy Plan. For evaluation purposes, GPC will develop an individual fuel plan for each CC and CT Submission and a grid charging plan for any ESS Submission to reliably and economically meet the fuel/energy supply requirements for those Submissions. The projected fuel/energy plans will be developed in a consistent and fair manner for all Submissions.

3.10.1. Fuel Evaluation. Natural gas prices will be linked to a single monthly forecast of gas prices at a common point (Henry Hub). Delivered gas prices will include applicable gas transportation charges, fuel retention rates, historical basis differentials, and taxes. GPC will evaluate fuel-related requirements, including the purchase of firm gas transportation and storage, as follows.

A. CT. GPC prefers that CTs have dual-fuel capability to burn natural gas and oil. Gas storage will be evaluated consistent with other GPC CT units, and fuel oil inventory costs will be applied as appropriate. The Submission must indicate the permitted hours of operation and the maximum hours per year the Facility is permitted to run on fuel oil. The supporting facilities (including infrastructure and property interests) and operation for onsite fuel oil storage, if applicable, must comply with the following standards:

(i). CT Facilities with sufficient fuel oil backup will not require firm gas transportation provided the oil can be burned year-round. If a CT Facility has sufficient fuel oil backup but cannot burn oil in the summer months, then, for months with seasonal limitations on oil, the Submission must include five to twelve hours firm transportation per Day on gas depending on site limitations and unit heat rate.

(ii). For an existing CT Facility with dual-fuel capability, the Facility should include: (1) sufficient fuel oil storage to operate the Facility for 24 continuous hours, without replenishment, at full load; and (2) adequate replenishment capabilities.

(iii). For a new-build or transfer CT Facility with dual-fuel capability, the Facility must include: (1) sufficient fuel oil storage capacity to operate the Facility for 72 continuous hours, without replenishment, at full load; and (2) adequate replenishment capabilities.

(iv). Unless otherwise mutually agreed by GPC and Seller under a PPA, Seller will acquire, permit, construct, own, operate, and maintain all facilities, infrastructure, auxiliary systems (e.g., water system), and property interests necessary to ensure sufficient fuel oil storage capacity and reliable replenishment capability as required to operate the Facility. If a Participant offering a CT Facility cannot meet the storage and replenishment capabilities outlined above, Participant must indicate its storage and replenishment capabilities. GPC will evaluate this as a qualitative, non-price factor.

(v). GPC and Seller will develop additional Site-specific requirements and objectives necessary to implement the foregoing standards as a part of the Awarded Contract.

B. CC. Each CC Facility will be evaluated with sufficient firm gas transportation to allow 14 hours of operation at full load plus 10 hours operation at peaking or secondary modes of operation (24 hours total operation). In each CC Submission, Participant must indicate the permitted hours of operation.

3.10.2. Fuel Tolling for CC and CT PPA Bids. Each PPA Bidder offering a CT or CC Facility must submit a firm fuel transportation proposal to confirm that the resource can meet the firmness requirements of this RFP for the PPA Term, but Bidders are not required to have a firm fuel transportation arrangement in effect at the time of Bid submission.

A. Tolling. GPC requires a fuel tolling arrangement (i.e., an arrangement in which GPC is responsible for fuel supply and transportation) for CC and CT Facilities for which the Bidder does not have a pre-existing fuel transportation arrangement.

B. Preexisting Fuel Arrangements. Regarding resources for which the Bidder has a pre-existing fuel transportation arrangement, GPC prefers a fuel tolling arrangement with assignment/release of the pre-existing fuel transportation arrangement. If a fuel tolling arrangement with assignment/release of the pre-existing fuel transportation arrangement is proposed, this will be factored into the evaluation. Bidder must provide specific data regarding the costs and rates that will be assigned/released in accordance with the fuel transportation arrangement as a Bid term.

C. GPC Delivery of Gas. GPC will be responsible for delivering to the agreed-upon gas delivery point sufficient quantities of natural gas to generate energy in accordance with GPC's energy schedules. GPC will bear the risk of loss of natural gas until it is delivered to the delivery point. The party responsible for causing any imbalance will be responsible for payment of any imbalance charges assessed by the pipeline operator.

3.10.3. Charging Plan for ESS Bids. GPC requires each ESS to connect to the Southern Company Transmission System and for each ESS PPA to contain an energy tolling provision for grid charging. In addition to grid charging, an ESS with Renewable Resource is expected to be appropriately sized to allow the Renewable Resource to be the primary source of charging for the ESS. Additional charging details are listed in Exhibit L (*Additional Guidance for ESS Submissions*).

3.11. Alternate Delivery. If the Facility is physically unable to meet GPC's schedules, and to avoid a commensurate reduction in the calculated availability of the Facility, an Awarded Contract will

contain provisions that give Seller the option to elect a physical alternate delivery option for the duration of a Facility outage or de-rate. Alternate delivery does not apply to ESS Bids. The pro forma CC and CT PPAs provide examples of these alternate delivery rights.

3.12. Technical Requirements. All Facilities must comply with NERC EOP-012-1 (*Extreme Cold Weather Preparedness and Operations*). Exhibit O (*Facility Technical Requirements*) contains a general overview of the technical requirements with which each Facility must comply, as applicable.

3.12.1. BTA Bids and COPs. All BTA Bids and COPs must conform to GPC's minimum technical requirements. GPC will make its minimum technical requirements available to any BTA Bidder or COP Team through the IE. To receive the minimum technical requirements, Bidder must execute a nondisclosure agreement.

3.13. Station Service; Retail Electric Service. Seller is responsible for all Station Service at Seller's expense. For a Facility located in Georgia, Seller must arrange retail electric service for the Facility in accordance with the Georgia Territorial Electric Service Act. Seller will purchase Station Service (separately-metered energy delivered from the Electric System that is used to serve the Facility's electrical requirements, including transformer losses and line losses between the Facility and the POI) provided by the local electric service provider (which may or may not be GPC).

3.14. Environmental Compliance. All Submissions that advance to the Competitive Tier will undergo a comprehensive environmental review to ensure compliance with the requirements of this All-Source RFP, including the requirements found in Exhibit M (*Environmental Site Assessment Requirements*). Bidder must cooperate with GPC's Environmental Affairs Department, at Bidder's cost, regarding the environmental and cultural resources assessments, surveys, and studies performed for the Site, and for the property on which the Interconnection Facilities will be located, as well as any related Access Route.

3.14.1. Site Assessment. Each Bidder must conduct an Environmental Site Assessment that, at a minimum, considers the factors described in Exhibit M (*Environmental Site Assessment Requirements*) and must include the affidavit found in Exhibit N (*Environmental Compliance Affidavit*) with its Bid.

3.14.2. Environmental Assurances. Each Bidder must submit a notarized Environmental Compliance Affidavit, found in Exhibit N (*Environmental Compliance Affidavit*) that affirms Bidder understands all environmental impacts and factors related to the Project and, at a minimum, agrees to fully consider the environmental requirements of this RFP to avoid, minimize, and if necessary, permit and mitigate the Project's environmental impacts. If a Submission is advanced to the Competitive Tier, it will undergo a comprehensive review to ensure Bidder complied with the environmental compliance requirements of this RFP. Furthermore, Bidder must submit Environmental Assurances documentation to GPC after Competitive Tier notice but no later than the date stated in the Solicitation Schedule. If Bidder does not provide sufficient and acceptable supporting documentation considered by the Environmental Site Assessment Requirements found in Exhibit M (*Environmental Site Assessment Requirements*), the Submission may be removed from the Competitive Tier.

3.14.3. Gas-Fired Requirements.

A. NOx and SO2 Allowances. Seller, under a gas-fired resource PPA, will be required to use for GPC's benefit all "NOx Allowances and SO2 Allowances that are allocated to or for the Facility, or that are otherwise granted to Seller for the Facility, by any Governmental Authority or under any applicable law or Consent, including through any state or federal set-aside program, for the calendar years covered, in whole or in part, by the Annual Periods. If NOx emissions or SO2 emissions from the Facility resulting from energy generated to meet GPC's scheduling instructions exceed the NOx Allowances or SO2 Allowances that are required to be supplied and used by Seller, GPC will be responsible for supplying only the additional NOx Allowances or SO2 Allowances. GPC's responsibility to provide any

additional allowance will be capped at the emissions rates (per state and per MWh of energy) proposed by the Participant. During Bid evaluation, GPC will calculate emissions utilizing Bidder's proposed rates and GPC's anticipated scheduling of the Facility. Complete details of these obligations are described in the pro forma CC and CT PPAs.

B. Greenhouse Gas Compliance. Each Bidder proposing a gas-fired Capacity Resource must supply a narrative description of Bidder's proposed plan for complying with any regulation designed to avoid, reduce, utilize, or sequester air pollutants or greenhouse gases.

3.15. CC Operating Flexibility. A Participant offering a 2-on-1 CC Facility must offer operation in the 1-on-1 mode if technically feasible by design. Operating in 1-on-1 mode entails the ability to operate a single CT, one HRSG, and the steam turbine while second CT is shutoff. A Participant offering this type of Facility must offer cycling from 2-on-1 operation down to 1-on-1 mode and back up to 2-on-1 mode if technically feasible by design. A Participant may also propose a 1-on-1 CC Facility.

3.15.2. Operation Mode Pricing. A Participant offering a 2-on-1 CC Facility should offer 1-on-1 operation pricing based on the cost of operating in this mode. This should entail a start charge that accurately represents the cost of starting the Facility in the 1-on-1 mode and the cost of moving from 1-on-1 mode to 2-on-1 mode. The Participant should also provide heat rate curves consistent with the actual cost of 1-on-1 operation. If a Participant proposes a resource with other operational capabilities, (e.g., 3-on-1 or power augmentation), Participant's Submission must offer the operational flexibility consistent with the Facility capabilities and pricing based on the cost of providing such operational flexibility.

3.16. Compliance with Laws Generally. It is Bidder's sole responsibility to take all necessary actions to satisfy any regulatory requirements, licenses, and permits that may be imposed on Bidder by any federal, state, or local Governmental Authority concerning the permitting, development, construction, operation, maintenance, addition, renewal, retirement, or disposal of the Facility, or concerning the generation, sale, and delivery of energy. GPC will cooperate with Winning Bidder(s) to provide information or other assistance as may reasonably be requested by the Bidder to satisfy regulatory requirements. Bidder must likewise provide necessary information and assistance to GPC concerning GPC's regulatory approvals.

PART 4. PRICING, FEES, AND SECURITY

4.1. PPA Pricing. PPA Bid prices must include all costs GPC will pay for the capacity and energy to be delivered under the PPA in accordance with GPC's scheduling instructions. GPC will not be responsible for any other cost associated with the Facility, including Station Service, fuel for testing, transmission system interconnection, and all costs (including fuel) incurred to accomplish synchronization.

4.1.1. Escalating Pricing. A PPA Bidder may submit a Bid with the capacity payment escalated at a fixed percentage not to exceed 2.5% in any Annual Period. The minimum escalation during any Annual Period for the capacity payment will be limited to 0%.

4.1.2. Variable Pricing (Not Applicable to ESS Bids). All energy pricing, Variable O&M, and heat rates must be quoted as indicated in the Bid Form. Variable O&M must escalate at actual GDPIPD or actual GDPIPD plus or minus 1% per annum. Bidders are encouraged to propose variable costs consistent with their actual realized variable costs. The Bid heat rate should closely approximate the anticipated heat rate. If the Bid's variable components are not consistent with Facility design specifications, GPC may request, through the IE, that Bidder modify its Bid(s). This cost-based pricing approach must reflect the following components, as applicable: (i) Variable O&M; (ii) start cost; (iii) heat rate; and (iv) fuel commodity cost.

4.2. APA/BTA Pricing. Each APA/BTA Bid must provide an "all-in" price that includes all customary and reasonable facilities necessary for reliable operation of the Facility, including transmission interconnection, gas lateral, any other facilities, and the Site. An APA/BTA Facility must include the Facility's major equipment and all auxiliary equipment and facilities necessary or used for the production, control, delivery, or monitoring of electricity produced on the property. All equipment and other facilities installed on the Facility's side of the POI and the primary gas delivery point, if applicable, must be considered part of the Facility. All data provided in Exhibit C (*Additional Bid Information and Questionnaire*), including capacity, heat rate, Variable O&M, startup fuel, and Facility availability must be based on: (i) testing, past performance, and good faith estimates for an APA Facility; or (ii) design criteria for a BTA Facility.

4.2.1. Option to Purchase Land. If an APA/BTA Bidder owns property adjacent to the Site, the Bidder may include within its Bid an offer to sell to GPC the adjacent property for an optional price stated in the Bid.

4.2.2. Due Diligence. Concurrent with GPC's initial economic screening of all conforming Submissions, GPC will begin APA/BTA due diligence assessments as generally described in Exhibit A (*Due Diligence Phases and Fees Overview (APA and BTA Bids Only)*) to determine GPC's best estimate of the cost to own and operate the Facility.

4.3. Change of Law. If a Change of Law occurs, Participant may request to adjust its Submission pricing to account for Change of Law Capital Expenditures more than: (i) for PPA Bids, 10% of Bidder's offered Annual Capacity Price multiplied by the Facility Nominal Capability (kW) for the first Annual Period; or (ii) for BTA/APA Bids and COPs, more than 20% of the purchase price divided by the Facility Design Life ("Excess Change of Law Capital Expenditures").

4.3.1. Notice. If Participant determines that any Change of Law will cause Change of Law Capital Expenditures not accounted for in Submission pricing, Participant must notify GPC through the IE Website no later than 15 Business Days after Participant knew or should have known of the Change of Law. Participant's notice to GPC must identify in reasonable detail the claimed Change in Law and its likely effects on the Facility.

4.3.2. Submission Pricing Adjustment Before Refresh. For any Change of Law that occurs before the Submission refresh deadline stated in the Solicitation Schedule and for which Participant provided notice in accordance with Section 4.3.1 (*Notice*), Participant may include Change of Law Capital Expenditures in its refreshed Submission Pricing.

4.3.3. Submissions Pricing Adjustment After Refresh. For any Change of Law that occurs after the after the Submission refresh deadline stated in the Solicitation Schedule and for which Participant provided timely notice in accordance with Section 4.3.1 (*Notice*), Participant may request approval to adjust its Submission pricing to account for Excess Change of Law Capital Expenditures. Participant must submit its request through the IE Website. Participant's request must state Participant's proposed Submission pricing adjustment and be supported by documentation sufficient for GPC to validate the need for and amount of Excess Change of Law Capital Expenditures. GPC will evaluate Participant's request and reasonably determine if it is appropriate to allow Seller to adjust its PPA Bid Price by taking into account the requested adjustment amount, composition of the Competitive Tier, the Submission's potential benefit to GPC customers, and any other quantitative or qualitative factor GPC deems appropriate. GPC will notify Participant of GPC's determination through the IE Website. If GPC determines a pricing adjustment is not appropriate, GPC will notify Participant and allow Participant to withdraw its Submission without penalty (including Bid Security forfeiture), at Participant's election.

4.3.4. PPA Pricing Adjustments. If GPC agrees an adjustment is appropriate, GPC and Bidder will, each acting in a good faith and commercially reasonable manner and under the oversight of the IE, establish an appropriate annual fixed charge rate to apply to the original capital cost of the additions, modifications, or other capital expenditures that comprise Excess Change of Law Capital Expenditures for purposes of calculating an adjustment to the Annual Capacity Price(s)

associated with capitalized additions or modifications to the Facility (determined in accordance with GAAP).

4.3.5. APA/BTA and COP Pricing Adjustments. An APA/BTA Bidder or COP Team, as applicable, and GPC will, each acting in a good faith and commercially reasonable manner under the oversight of the IE and Staff, will establish a fixed-cost adjustment to the fixed cost portion of Submission pricing to account for Excess Change of Law Capital Expenditures.

4.4. Refreshed Submission Pricing. Subject to Commission approval of this RFP, GPC will use the "competitive tier and refreshed bid" process set out in Commission Rule 515-3-4-.04(3)(e)(ix), which allows a Participant with a Competitive Tier Submission to refresh its pricing after the Competitive Tier has been advanced. After the Competitive Tier is determined, the IE will contact each Participant with a Submission that advanced to the Competitive Tier to inform the Participant that it may better (increase or decrease) its Submission price as a final and best offer, as described in the applicable subsections below. The IE will post the Competitive Tier list on the IE Website showing each Participant's relative rank and the total evaluated cost of each Submission. Each Participant on the Competitive Tier list will be identified blindly, so each Participant may only see its rank compared to those of all other anonymous Competitive Tier Submissions. GPC will conduct a final evaluation of refreshed Submissions and advance the Short List of winning Submissions in accordance with the RFP Rule and as described in Section 8.6 (*Bid Lists*).

4.4.1. Refreshed Submissions Process. Each Participant invited to refresh Submission pricing must submit refreshed pricing (as limited by the subsections that follow) by the deadline stated in the Solicitation Schedule. Any refreshed Submission pricing will supersede the Submission's initial price. At submission, Participant must also include a written narrative explaining why it is necessary for Participant to change its pricing. GPC will use Participant's explanatory information for informational purposes and, to the extent the Submission is a Winning Submission, in support of its Certification request.

4.4.2. PPA Bid Refresh. Each PPA Bidder with a Bid that advances to the Competitive Tier will be given one opportunity to refresh the fixed-price portion of its Bid (i.e., capacity price and fuel transportation price).

4.4.3. APA/BTA Bid Refresh. Each APA/BTA Bidder with a Bid that advances to the Competitive Tier will be given one opportunity to refresh its acquisition price and fuel transportation price.

4.4.4. COP Refresh. If a COP advances to the Competitive Tier, the COP Team will be given one opportunity to refresh the total fixed-cost portion of the Company-Owned Proposal.

4.5. Bid Fee. To help defray the cost of performing an evaluation of each Bid and the cost of retaining the IE pursuant to the RFP Rule, each Bidder must pay the Bid Fee ($20,000) for each Bid. A portion of each Bid Fee in the amount of $10,000 will be earmarked to offset IE costs. Bidder must pay the Bid Fee by 12:00 p.m. ET on the Bid Due Date.

4.6. Due Diligence Fees. To partially offset the cost of screening and assessments of an asset purchase, APA/BTA Bidders will be required to submit Due Diligence Fees as described in Exhibit A (*Due Diligence Phases and Fees Overview (APA and BTA Bids Only)*). The IE and Staff will be involved in monitoring GPC's screening and due diligence assessment of APA Bids and will review the allocation and accrual of costs involved in the assessments. A portion of Due Diligence Fees will be used to offset IE costs.

4.7. Winner's Fee. As stated in Section 4.5 (*Bid Fee*) and Section 4.6 (*Due Diligence Fees*), portions of Bid Fees and Due Diligence Fees will be used to offset IE costs. The remainder of the IE cost will be covered by the Winner's Fee. The Winner's Fee will be determined once the final amount of Bid Fees, Due Diligence Fees, and IE cost is known, except in no event will the Winner's Fee exceed one million dollars ($1,000,000.00). The Winner's Fee is calculated for each winning

Submission, including any Company-Owned Proposal, as the pro rata share for any remaining IE cost not covered by Bid Fees and Due Diligence Fees. In the event of multiple winning Submissions, the Winner's Fee will be allocated to winning Participant(s) on: (i) a MW-PPA Term basis for PPA(s); (ii) a MW-estimated-remaining-life basis for APA(s); (iii) and a MW-Facility Design Life basis for BTAs and Company-Owned Proposals. Winning Bidder must pay the Winner's Fee when it delivers to GPC the Awarded Contract with Seller's signatures. GPC will not execute the applicable Awarded Contract until after winning Bidder pays the Winner's Fee. If a Company-Owned Proposal advances to the Short List and is submitted to the Commission for Certification as described in Section 10.2 (*Company-Owned Proposal Certification*), GPC will be responsible for its portion of the Winner's Fee. A Winning Bidder must pay its Winner's Fee by wire transfer to the following account:

Georgia Power Company
Bank of America
ABA 026009593 WIRE
ABA 111000012
ACH ACCT. 4451853103

4.8. Bid Security. Any Bidder with a Bid that advances to the Competitive Tier must post Bid Security by no later than 15 Business Days after Bidder receives notice from GPC that the Bid advanced to the Competitive Tier. Bid Security is fully refundable to Bidder either: (i) if the Bid is released from consideration in this All-Source RFP; or (ii) at the time Seller and GPC fully execute the Awarded Contract for the winning Bid. Bid Security is non-refundable if a Bidder withdraws its Bid or otherwise fails to execute the pro forma PPA, APA, or BTA after being advanced to the Short List.

4.8.1. Bid Security Amount. The Bid Security amount must equal the *product* of either: (i) 2% multiplied by the sum of the expected revenues during the PPA Term; or (ii) 2% of the purchase price for an APA or BTA Bid.

4.8.2. Bid Security for Alternative Bids. For Alternative Bids and other mutually exclusive Bids for the same Site, Bidder may post a single Bid Security for the Bid Security amount associated with the largest mutually exclusive Bid. If Bidder withdraws any of the mutually exclusive Bids, the Bid Security will be forfeited, in its entirety, as described in Section 4.7 (*Bid Security*). Following Bidder's withdrawal, Bidder must immediately post a replacement Bid Security, in the amount required for the next largest mutually exclusive Bid, for any remaining mutually exclusive Bids it desires GPC to continue to evaluate.

4.8.3. Pre-Approval of Bid Security. Each Bidder with a Bid that advances to the Competitive Tier that intends to provide Bid Security in the form of a Surety Bond or a Letter of Credit must deliver a draft (unissued) Surety Bond or Letter of Credit for review and approval by GPC, at least 10 Business Days before the Bid Security due date as reflected in the Solicitation Schedule. Instructions for posting the draft and final Bid Security, and the required form of Surety Bond, will be available on the IE Website. Pre-approved Bid Security submitted in the form of Surety Bond or Letter of Credit must be mailed via a reputable overnight courier to GPC at the following address:

Georgia Power Company
c/o Southern Company Services Inc.
Attention: Assistant Treasurer
Bin No. SC1407
30 Ivan Allen Jr. Blvd.
Atlanta, GA 30308

Bidder must upload a copy of Bid Security to the IE Website. Surety Bonds or Letters of Credit sent to any other address will be rejected. Bid Security in the form of cash must be submitted to

GPC through the IE Website according to the instructions posted on the IE Website.

4.9. Performance Security for Sellers.

4.9.1. PPA Performance Security. If a Seller is not Creditworthy, Seller must, in addition to Bid Security, post and maintain Performance Security throughout the PPA Term. If Seller is Creditworthy, the credit terms of the PPA will be adjusted to reflect Seller's Creditworthiness.

A. PPA Performance Security Amount. PPA Performance Security will be calculated in accordance with the applicable performance security table in Exhibit E (*Summary of Fees, Costs, Security, and Deadlines*), Attachment 1 (*Performance Security and Termination Liquidated Damages Summary*).

B. Loss of Creditworthy Status. If Seller loses its Creditworthy status during the Term, Seller must deliver Performance Security to GPC in the amount required by the applicable pro forma PPA by no later than five Business Days after the date Seller loses its Creditworthy status.

C. BTA/APA Performance Security Amount. Each Winning Bidder of an APA or BTA, must, on or before execution of an APA or BTA, as applicable, post and maintain Performance Security as required by the APA or BTA, as applicable.

4.9.2. Pre-Approval of Eligible Collateral. By no later than the date Seller returns the partially executed Awarded Contract to GPC, Seller must: (i) notify GPC of the form of Eligible Collateral Seller intends to provide to meet Seller's initial Performance Security obligation; and (ii) if Seller intends to post a Letter of Credit or Guaranty as Eligible Collateral, provide a draft Letter of Credit or Guaranty to GPC for review and approval.

Once approved, Seller must deliver Eligible Collateral to:

Georgia Power Company
C/O Southern Company Services, Inc.
Attn: Assistant Treasurer
BIN SC1407
30 Ivan Allen Junior Boulevard, NW
Atlanta, GA 30308

4.9.3. Conversion of Bid Security. If Bid Security is in the form of cash or a Letter of Credit, and Bidder is offered a PPA for execution, Bidder may opt to convert Bid Security to the required Performance Security at the time of PPA execution, or Bidder may replace Bid Security with another acceptable form of Performance Security in accordance with the provisions of the PPA.

4.10. Bid Preparation Costs. All costs related to preparation of any Bid in response to this All-Source RFP are the sole responsibility of Bidder. GPC will not reimburse or be held responsible for costs associated with any Bid prepared or submitted in response to this All-Source RFP.

4.11. Termination Damages. If GPC terminates an Awarded Contract because of an Event of Default, Seller will be liable for termination damages as provided in the Awarded Contract.

PART 5. COMMUNICATION

5.1. Monitored Communications. Before a winning Bid advances to an Awarded Contract, all communications regarding this All-Source RFP must be conducted through the IE and will be confidential. Communications may include a meeting or conference call with a Participant, attended by the IE and GPC, to discuss the Participant's questions regarding the RFP Process or Submission(s), unless the Participant declines such a meeting. The IE is also allowed to

conduct conference calls with a Participant, the IE, and GPC to clarify or resolve issues with a Submission or the RFP Process. Staff may participate in such discussions.

5.2. Communication Before Submissions. Pursuant to the RFP Rule, a Bidder may not contact any Evaluation Team member concerning any aspect of this All-Source RFP. Each Participant and interested Person registered on the IE Website may submit questions concerning this All-Source RFP, the RFP Documents, or Submission evaluation on the "Q&A" page of the IE Website. The questions and GPC's responses will be posted on the IE Website for viewing by all registered users of the IE Website. Participant will have a confidential Bid Book on the IE Website once the Bid Period commences and Participant initiates the Submission process. A Participant may ask Site-specific and Facility-specific questions using the "Messages" feature on the IE Website. Communications submitted through a Bid Book are not seen by other Participants and are only viewed by the Evaluation Team, IE, and Staff. The Evaluation Team will endeavor to promptly respond to each message. Any question posted to the confidential message board that the IE determines to be generic in nature, and not unique to a specific Site or Facility, may be transferred to the public "Q&A" tab on the IE Website.

5.3. Communication After Submissions.

5.3.1. Bid Books, Message Board. Once the Bid Period commences and Participant initiates the Submission process, each Participant will have a confidential Bid Book on the IE Website, where Participant posts all RFP deliverables and all messages from IE to Participant are available to Participant. Participant may ask Site-specific and Facility-specific questions using the confidential message board. Questions submitted on the message board are not available to other Participants and are only viewed by the Evaluation Team, the IE, and Staff. The Evaluation Team will reply to each question posted on the message board, after review and consultation with the IE and Staff. All questions determined by the IE to be generic in nature, and not unique to a specific Site or Facility, may be transferred to the "Q&A" page of the IE Website so that all Participants and registered users have the benefit of the question and response.

5.4. Listing Determination. The status of a Submission is confidential Submission Information, and Participants must not disclose the status of any Submission. Except as described in Section 4.4 (*Refreshed Submission Pricing*) for Competitive Tier Submissions, GPC will not announce the Competitive Tier, Short List, or Release List. The identity of the winning Submission(s) and winning Participant(s) will become public information when GPC requests Certification of the related Awarded Contract or Company-Owned Proposal, if any.

5.5. After Execution of the Awarded Contract. A winning Participant may not announce its status as a winning Participant or execution of an Awarded Contract via a press release or any other method of public communication without GPC's prior, express written consent. A winning Participant is responsible for ensuring that its winning Submission status remains confidential and is not announced by any Affiliate, Representative, or contractual party.

5.5.1. Renewable Resource Awarded Contracts. To the extent an Awarded Contract is for a Facility that includes a Renewable Resource, a Winning Bidder must educate its Affiliates, Representatives, contractual parties, and any other participants in the development of the Facility (e.g., development authorities, county, state, or federal Governmental Authorities) on the potential impact of public statements regarding renewable facilities (e.g., REC claims) and how the public statements may jeopardize the validity of Environmental Attributes that are sold to GPC under the Awarded Contract, which could result in a breach of the Awarded Contract by Seller. Upon execution of the Awarded Contract(s), the Winning Bidder(s) and GPC will work together to determine the timing and content of the official announcement of the winning status of the project and Awarded Contract execution. Upon entering the Awarded Contract, Seller must comply with the provisions of the Awarded Contract concerning any public statements about the Facility, including the RECs, and must ensure its Representatives also comply with these same Awarded Contract provisions.

5.6. Point of Contact. Each Submission must include detailed contact information for the primary point of contact for the Participant. This person will serve as the contact between the IE and the

Participant when questions and answers are exchanged and will receive authority to access the Participant's Bid Book on the IE Website. This contact person must be familiar with all aspects of the Submission process and Submission to efficiently communicate with the IE as necessary and to reduce any delay in communication. Participant must provide notice via the IE Website if there is a change in Participant's point of contact.

5.7. Confidentiality and Photographs for Site Compliance

5.7.1. Submission Information. Each Bidder must not disclose Bid Information to others, including the ongoing status of its Bid(s) or the information exchanged and discussed between Bidder and GPC and the IE and Staff (which exchanges and discussions must occur under the guidelines of this All-Source RFP and the RFP Rule), except that Bidder may disclose Bid Information to: Bidder's Representatives as reasonably necessary for Bidder to submit a Bid in this All-Source RFP, so long as a condition precedent to the permitted disclosure to Bidder's Representative(s): (a) Bidder must direct its Representative(s) not to disclose Bid Information; and (b) the Representative(s) must be subject to a contractual obligation to maintain confidentiality of Bid Information. If the Representative cannot be made subject to a contractual obligation to maintain confidentiality of Bid Information, Bidder must obtain GPC's written consent before making the disclosure. Furthermore, to the extent applicable, Bidder and its Representatives are prohibited from making any public statement or other claim regarding the energy or Environmental Attributes to be generated by the Facility, including any statement in any marketing or advertising material, press release, or public statement that the energy or Environmental Attributes are generated from any sustainable, perpetual, renewable, or other particular type of fuel. Each Bidder will be responsible for any statement, claim, commitment, or disclosure made by itself or its Representative that has the effect of retiring or claiming any Environmental Attributes from the Facility or otherwise limiting or jeopardizing any Environmental Attributes that would be conveyed to GPC under the Awarded Contract.

5.7.2. Bidder's Confidential Information. GPC will take reasonable precautions and use reasonable efforts to protect any Confidential Information contained in a Bid, so long as Bidder clearly identifies the information as Confidential Information on each page on which it appears. GPC may, however, make Bidder Confidential Information available under applicable state or federal law to Governmental Authorities having jurisdiction over this All-Source RFP. GPC may also release information to: (i) the IE and Staff as needed to monitor this the All-Source RFP; (ii) regulated retail Affiliates; (iii) SCS; or (iv) affected entities who have a need to know to assist in Bid evaluation, so long as the entities agree to observe the same care regarding non-disclosure as GPC. Additionally, GPC may, under the terms of the pro forma PPA, share Facility-specific information with the new Facility owner if the Seller assigns or otherwise transfers control of the Facility to a new owner. If the winning Bidder/Seller elects to sell the Facility, GPC may share the winning Bidder's/Seller's Confidential Information (e.g., reliability or information on operations) with prospective buyers who are identified by Seller, to ensure future performance in accordance with the PPA. **Under no circumstance will GPC (including its Affiliates, and the officers, directors, employees, representatives, or agents of any of them) or the IE or Staff be liable for any damages resulting from any disclosure before, during, or after the RFP Process.**

5.7.3. Photographs of Facility or Site. At GPC's request, Seller must provide GPC with photographs of the Facility or Site that may be used by GPC for verification of Seller's compliance with this All-Source RFP's requirements or for informational purposes. Seller grants to GPC and its Representatives, agents, Affiliates, successors, and assigns an irrevocable, worldwide, royalty-free, and unrestricted right and license to use, duplicate, modify, sublicense, distribute, display, or otherwise engage the photographs and related intellectual property, including the creation of derivative works. Seller represents and warrants that it has the exclusive right to grant the license to GPC for the purposes stated in this All-Source RFP and related documents.

PART 6. BIDDER ATTRIBUTES

6.1. Bidder Information to be Submitted. Each Bidder must provide the information described in this Part 6 (*Bidder Attributes*) at the time of Bid submission. GPC will screen each Bidder on the criteria to ensure basic Bidder qualifications.

6.2. Financial Metrics. Each Bidder must provide its most recent audited annual report and any 10-Q filings since the period covered in the annual report. If the report and filings are not available, Bidder should note this and provide the latest three years of audited financial statements for itself, Guarantor, and its upstream parent entity (if different than Guarantor). The Additional Bid Information requested in Exhibit C (*Additional Bid Information and Questionnaire*) provides additional information on the financial metrics required. If Bidder can provide any additional details related to its banking relationships or liquidity, GPC will consider those items in the credit evaluation as well. All financial statements, annual reports, and other large documents may be referenced via a website address.

6.3. Project Development Experience. Each Bidder must provide an executive summary of **no more than 5,000 words** describing its development experience for the past five years where: (i) Bidder (or, if Bidder is a special purpose entity created for purposes of bidding into this All-Source RFP, Bidder's parent (either immediate parent or other applicable upstream entity)), was the primary project developer or member of a consortium or joint venture; and (ii) the proposed facility was similar in size, was located in the United States, and utilized the same technology. Such summary must include: (a) the total number of projects and the capability (MW) of each facility Bidder currently owns and operates in the United States; (b) a description of the experience of the principal members of Bidder's project team; and (c) information on who will be responsible for design, siting, permitting, financing, construction, and, in the case of a PPA Bid, on-going operation and maintenance of the Facility, if known. In the absence of such expertise and experience in any such area, Bidder must demonstrate it has binding arrangements in place with third parties who do possess the requisite expertise and experience and must provide a certification from an independent, registered engineer acceptable to GPC to the effect that the Bidder's arrangements are sufficiently firm and binding as to provide a comparable level of experience and expertise. At a minimum, GPC will require the successful Bidder(s) who enter into a PPA to demonstrate that they possess, or have binding arrangements with others who possess, current experience greater than three years in operating and maintaining or arranging for the operation and maintenance of similar generation as follows:

6.3.1. For CC or CT Bids. A gas-fired CT or steam turbine generating facility (other than the Facility) and operation of two or more gas-fired CT or steam turbine generating facilities (other than the Facility) located at separate generating Sites with an aggregate capacity of 600 MW or more.

6.3.2. For all other Bids. Bidders offering Bids sourcing from facilities using other generation technologies will be required to have experience in the operation and maintenance of such facilities, or in the alternative, to have experience reasonably transferable to the operation and maintenance of such facilities.

6.4. Bidder and Contract Counterparty History. Each Bidder must disclose all power purchase agreements, build transfer agreements, or facility purchase agreements to which Bidder or any Affiliate was a party in the past five years that were terminated before the end of the contract term or closing, as applicable, and the reason for early termination. Each Bidder also must list any instances where Bidder or any Affiliate withdrew a project from any solicitation offered by GPC or any of its Affiliates after being identified as part of the Competitive Tier (or equivalent process) in the last five years. Each Bidder must identify and describe any dispute between Bidder or any of its Affiliates and GPC or any of its Affiliates (including all direct and indirect subsidiaries of Southern Company) that: (i) remain unresolved; and (ii) occurred within the last five years but have been resolved. In addition, each Bidder must identify any dispute with other off-takers that have progressed to any claim, litigation, or action that has been initiated with a court, Governmental Authority, or any other formal dispute resolution process. If Bidder or any of its

Affiliates currently owe any outstanding past due debt to GPC or one of its Affiliates, Bidder must also disclose this and provide details regarding the reason for non-payment. Before further consideration of such Bidder's Bid, Bidder may be required to resolve any undisputed outstanding debt to the satisfaction of all parties.

6.5. Union Labor. GPC is interested in receiving feedback on Bidder's use of unionized labor. As part of its Bid, Bidder will be asked to describe its efforts to use unionized labor, and if Bidder has used unionized labor for prior projects during: (i) construction phase; and (ii) during operations of any other facility. If so, Bidder will also be asked to describe any requirements under any project labor agreements imposing requirements to use unionized labor.

6.6. Diversity, Equity, and Inclusion (DEI). GPC is committed to supporting diversity, equity, and inclusion within GPC's own decision-making, hiring and promotion, and daily operations, and GPC encourages its counterparties, service providers, consultants, and supply chain vendors to promote similar efforts. GPC encourages projects that use contractors or suppliers that are classified as Certified Diverse Suppliers. To be considered for this non-price factor, Bidder must complete the Diversity, Equity, and Inclusion Certificate found in Exhibit G (*Diversity, Equity, and Inclusion Certificate*). More information regarding GPC's focus on DEI can be found here: https://www.southerncompany.com/our-community/diversity.html.

PART 7. SUBMISSION REQUIREMENTS

7.1. Notice of Intent to Submit. GPC requests that each Participant submit a notice of intent (NOI) to submit using the form available on the IE Website by the date and time recommended in the Solicitation Schedule. Each BTA Bidder must submit an NOI to receive GPC's nondisclosure agreement as required under Section 3.12.1 (*BTA Bids and COPs*). Participant must list only one point of contact in the NOI. If Participant intends to submit multiple Submissions, Participant may list all potential Submissions on a single NOI. Participant must indicate its proposed technology type and contract form (PPA, BTA, or APA), if applicable, for each Submission.

7.2. Bid Process. Each Submission must be submitted via the Bid Form on the IE Website by no later than the date and time specified in the Solicitation Schedule. If a Bidder discovers an error or omission in the Bid after submitting its Bids but before the Bid Due Date, Bidder must note any change in the electronic filing and the changes must be posted to the Bid Form by no later than 12:00 p.m. ET on the Bid Due Date.

7.3. Effect of Bid Submission. Bidder's Bid submission will constitute Bidder's acknowledgment and acceptance of all terms, conditions, and requirements of this All-Source RFP, including pro forma PPA terms and conditions. Failure to provide all requested Submission information may invalidate a Submission. GPC is not required to contact any Participant to obtain any omitted information.

7.4. Alternative Bids; Multiple Submissions; Bid Fees.

7.4.1. Alternative Bid. Bidder may submit a separate, mutually exclusive Bid that offers a Facility located on the same Site and using the same Point of Delivery as another Bid, but the Alternative Bid: (i) offers the same technology under a different form of contract; (ii) offers the same technology with varying PPA Term lengths; or (iii) offers a different technology (e.g., CT vs CC) ("**Alternative Bid**"). The placement of a Bid on the Release List will not affect GPC's evaluation of the Alternative Bid.

7.4.2. Multiple Submissions. Participants may submit multiple Submissions into this All-Source RFP. Except for an Alternative Bid, GPC will not accept contingent Submissions (i.e., a Submission that is dependent upon another Submission's outcome). For example, GPC will not accept Submissions where Participant submitted multiple Submissions for several Sites but is only willing to develop a limited number of those Facilities or requires a combination of the Submissions to be advanced together. Additionally, Bidder may not aggregate multiple Facilities from one or more Sites to meet the minimum MW required to be submitted in this All-Source RFP.

7.4.3. Bid Fees. If Bidder submits separate Bids that vary regarding certain critical parameters, including contract type, the Site, output, electrical characteristics, or technology (e.g., gas-fired CC and simple cycle CT facilities, cogeneration, primary fuel, ESS duration), Bidder will be required to pay the Bid Fee ($20,000.00) for each Bid. However, PPA Bids submitted by one Bidder for the same Site, same generation technology, and same size that offer options in the fuel plan or fixed cost components will be considered a single Bid. In addition, Bids for the same Site containing options in the number of generating units offered will be considered a single Bid if the generation technology is the same and the operational parameters and variable pricing are the same in all Bids. PPA Bids for 5-, 10-, 15-, 20-, 25-, or 30-year Terms with all performance and variable pricing characteristics remaining the same will be considered one Bid. A maximum of three (3) options will be accepted as a single Bid covered under one Bid Fee.

7.5. Submission Information. Submissions must include all applicable information requested on the IE Website and any other information that is necessary for a thorough understanding and evaluation of the Submission. Any Submission that does not contain all the required information on the applicable due date will be subject to rejection by GPC as non-responsive. It is each Participant's responsibility to submit additional information about its Submission that could further inform GPC's understanding of the Submission or could materially affect its value. Required Submission information includes the information outlined below.

7.5.1. Facility Name. Due to the need to manage a multitude of projects, and GPC's experience with counterparties selecting similar or confusing names for projects, GPC may reject a Facility name offered by a Winning Bidder and propose an alternative name. To give Bidder sufficient time to perform due diligence on the Facility name and any proposed special purpose entity name it intends to use as the Awarded Contract counterparty, GPC will request Bidder confirmation of the Facility and counterparty names at the time a Bid advances to the Competitive Tier.

7.5.2. Site Control Affidavit. Each Bidder must submit a notarized Site Control Affidavit that affirms Bidder has obtained Site Control during the PPA Term or Facility Design Life, as applicable. The form Site Control Affidavit is attached as Exhibit D (*Form of Site Control Affidavit and Landowner Confirmation*). Bidder may be required to submit further evidence of Site Control, as and when deemed necessary by GPC.

7.5.3. Bidder Variable Interest Entity Certification. Depending on the PPA Term and the business structure, a PPA Bidder may choose to adopt accounting and tax rules that may require: (i) that a PPA, or components of the PPA, be accounted for by GPC as a lease; or (ii) Seller under the PPA be consolidated as a VIE onto GPC's books. Because GPC is unwilling to be subject to accounting or tax treatment that results from VIE treatment, each Bidder is required to certify, using the form found in Exhibit J (*VIE Certification*), its independent belief that the Bidder's Bid will most likely not require the Seller at any time over the proposed PPA term to deconsolidate on its books and records any assets, liabilities, cash flow, profits, or losses where GPC is determined to be the Primary Beneficiary. At PPA execution, annually through the Term, and at any time the PPA is amended by the Parties, the Seller's chief financial officer or an officer having responsibility for financial accounting matters associated with the PPA, must again provide this certification. Further, any PPA that GPC executes will require that: (a) Seller covenant that GPC will not be subject to VIE treatment at any point during the Term; and (b) if the PPA causes GPC to be subject to VIE treatment at any point during the Term, unless cured, such treatment will constitute a PPA Event of Default. As provided for in the pro forma PPAs, GPC would have the right to terminate the PPA, and unless Seller can clearly demonstrate that the consolidation event was not due to the direct or indirect actions of Seller, Seller will be liable for termination damages as outlined in the PPA.

7.5.4. Finance Lease Certification. If applicable, Bidder must certify certain factual statements for each Bid based on Bidder's personal consideration of the factual matters and Bidder's understanding of accounting standards regarding a Finance and Operating Lease, using the form provided in Exhibit K (*Finance Lease Certification Checklist*). If Bidder responds in the affirmative

on one or more of the factual statements, Bidder must also provide the amounts that GPC would be required to capitalize and the residual value of the Facility as defined in Exhibit K. In any case for which Bidder responds in the negative to all the factual statements set forth in Exhibit K, Bidder is required to certify such declaration, with supporting information sufficient to enable GPC to independently verify that Finance Lease treatment will not occur. At the time of Bid submission, at PPA execution, and at any time the PPA is amended by the Parties, Seller's chief financial officer or an officer having responsibility for financial accounting matters associated with the PPA must again provide this certification. For Bids declared as Finance or Operating Lease, the Bid evaluation will include the cost to GPC resulting from capitalization of PPA costs on GPC's balance sheet.

7.5.5. Financial and Business Data. Each PPA Bidder with a Bid advanced to the Short List must also agree to make available all financial and business data associated with Seller, the Facility, and the PPA that GPC would need to make its independent accounting determinations. Such information may include, but may not be limited to, data supporting the economic life, the fair value, investment tax credits associated with, or other costs associated with the Facility, including debt specific to the asset proposed. Financial data contained in the Bidder's financial statements (e.g., income statements or balance sheets) may also be required.

7.5.6. Organizational Chart. Each Bid must include an organizational chart that identifies (by name and state of organization) all related Affiliates or special purpose entities. If Bidder intends to form a new special purpose entity or subsidiary to become the Awarded Contract counterparty, GPC requests that Bidder disclose this intent as part of the Bid, and in any case, it must be disclosed by no later than the Day after Bidder is notified of the Bid's advancement to the Short List. Any Bidder using or planning to use a special purpose entity or subsidiary as the Awarded Contract counterparty (i.e., Seller), must include a proposed organizational chart clearly showing the relationship to the special purpose entity or subsidiary, as applicable.

7.5.7. Registration in Georgia. Except for APA Sellers offering a Facility outside of the state of Georgia, Seller under the Awarded Contract must register and be in active and compliant standing with the Office of the Georgia Secretary of State, authorizing Seller to do business in Georgia before the time of Awarded Contract execution.

7.5.8. Pro Forma APA, BTA, or PPA Markup Required. In accordance with the RFP Rule, prospective Bidders in this All-Source RFP were given an opportunity to comment on the RFP and pro forma contracts during a public review and comment period. Upon Commission approval of the RFP Documents, the concepts and material provisions of the pro forma APA, BTA, and PPAs are non-negotiable except as provided in this Section 7.5.7. Each Bid must include a mark-up of the pro forma contract that most closely applies to the Bid with: (i) all blank spaces completely filled in except those that are to be completed by GPC; (ii) any proposed change to the pro forma APA, BTA, or PPA (whichever applicable) shown with specificity in the mark-up and accompanied by a summary of changes; and (iii) a statement by the Bidder that the terms and conditions of the applicable pro forma contract, as non-materially modified by the Bidder, are acceptable to Bidder. If the Bid is conditioned on any change to the applicable pro forma contract, then Bidder must expressly so state and must provide the specific language proposed by Bidder by redlining a copy of the appropriate pro forma PPA attached to the Bid, such that it shows the specific additions (**bold and underlined**) and deletions (~~strike-through~~) that Bidder proposes.

A. Pro Forma PPAs. GPC developed four pro forma PPAs, with generally consistent provisions; however, Bidder must note that this All-Source RFP reflects general terms and conditions and each pro forma PPA reflects technology-specific terms and conditions applicable to its generation type. The four pro forma PPAs include: (i) CC New and Existing Resource; (ii) CT New and Existing Resource; (iii) ESS with Renewable Resource; and (iv) Standalone ESS. For any deviation between the terms and conditions of this RFP and the terms and conditions of the applicable pro forma PPA, the terms and conditions of the specific pro forma PPA will control.

(i). Assumptions. The four pro forma PPAs are based on several assumptions that may or may not apply to a Bid. Examples of assumptions are: (a) the proposed Facility is a New Resource or Existing Resource; (b) the Seller is not itself a Creditworthy entity; (c) the Bid offers 100% of an Existing Resource Facility's output capability; and (d) the CC pro forma PPA assumes a base operating mode and two supplemental modes designated as Tier 1 and Tier 2. For more details on these assumptions, please see the applicable pro forma PPA.

(ii). Conversion of CT or CT PPA for Existing Resource. If Bidder offers a Bid to deliver capacity and energy from a CC or CT Existing Resource, Bidder must mark up the PPA, per Section 7.5.7 (*Pro Forma APA, BTA, or PPA Markup Required*), to convert the applicable CC or CT pro forma PPA, which has a New Resource assumption, to a PPA for an Existing Resource. Instructions on how to make this conversion are found in the "Existing Resource Modifications to CC/CT Pro Forma PPAs" document located on the IE Website.

B. Material Conformance. Each Bid must conform to the applicable pro forma APA, BTA, or PPA in all material respects, except where: (i) Bidder offers revisions that GPC determines do not materially affect the value to customers and risk allocation inherent in the pro forma contract provisions; or (ii) the pro forma contract assumptions do not conform to the specific characteristics of a Bid. For example, the pro forma ESS with Renewable Resource PPA assumes the Renewable Resource that is paired with the ESS is a solar facility. A Bidder offering a CAES Facility, or an ESS with Renewable Resource technology other than solar, must mark up the pro forma PPA to reflect its proposed Facility parameters. Another example would be if a Bidder's Bid conforms to RFP requirements and the Bid offers a fuel other than natural gas, such as biomass, then Bidder must propose changes to the applicable natural gas-fired pro forma PPA to the extent needed to conform the pro forma PPA's provisions to the proposed fuel. GPC will consider the types of changes suggested by Bidder as part of GPC's evaluation of the Bid; however, GPC will not change or negotiate the concepts embodied in the pro forma APA, BTA, or PPAs' provisions where the concepts can be applied to the Bid or otherwise materially change the value to customers or the risk allocated to the appropriate party in the Commission-approved pro forma contract.

7.6. Additional APA/BTA Information. A Bidder submitting an APA/BTA Bid must be prepared to provide all necessary information to support commencement of the initial due diligence assessment. Much of this data may be made available electronically. Rather than requiring the data to be in a specific form or format, the key criteria is that this type of information is readily available for review. Exhibit A (*Due Diligence Phases and Fees Overview (APA and BTA Bids Only)*) outlines the due diligence review process, which proceeds in three stages and divides the required APA/BTA due diligence fees accordingly. An APA/BTA Bidder may be asked to provide additional data at any time during any of the due diligence review periods. Data must be reasonably available to be copied and reviewed at GPC, and the APA/BTA Bidder must work with GPC to ensure timely sharing of information (i.e., five Business Days unless otherwise agreed).

7.7. Assurances Regarding Facility Design and Construction. Any COP Team must submit to the IE a copy of a fully-executed EPC contract by the refreshed Submissions deadline stated in the Solicitation Schedule. If Participant's Submission proposes a New Resource, then by no later than seven Days after the date Participant receives notice that it's Submission advanced to the Short List, Participant must provide reasonable assurances, to GPC's satisfaction, regarding design and construction of the Facility.

7.8. Bid Validity. Each Bid must remain valid until the earlier of: (i) the date the RFP concludes; (ii) the date GPC files the applicable executed Awarded Contract with the Commission; or (iii) Bid withdrawal.

7.9. No Changes after Bid Period Concludes. Once the Bid Period closes, Participant will not be allowed to make any change to the Submission that would impact GPC's evaluation of the

Submission, except as described in Section 4.4 (*Refreshed Submission Pricing*), Section 7.9.1 (*Submission Deficiencies*), Section 7.9.2 (*Bid or Company-Owned Proposal Errors*).

7.9.1. Submission Deficiencies. After the Submission deadline, the IE will review key elements of each Bid and any Company-Owned Proposal to screen for errors and omissions and, if necessary, confirm those elements with the Participant. In consultation with Staff and the Evaluation Team, the IE will provide Participant an opportunity to cure deficiencies. After that occurs, a Bid or Company-Owned Proposal that is not cured will be identified as a Deficient Submission and rejected. After the Bid Due Date, no Participant may change its pricing or revise its Bid or Company-Owned Proposal on its own initiative. After consulting with Staff and the IE, the Evaluation Team may request that a Bid or Company-Owned Proposal be revised to obtain the best value for GPC's customers. Any requested revision of a Bid or Company-Owned Proposal will be reviewed by Staff and the IE before being addressed with the respective Participant.

7.9.2. Bid or Company-Owned Proposal Errors. Modification of Bids or Company-Owned Proposals will not be permitted after the cure period unless correction of the error or omission is in the best interest of GPC's customers and will not harm the RFP Process, as determined by GPC in consultation with the IE and Staff. All modification requests must be made through the IE Website.

7.10. Submission Compliance. Any Submission that does not satisfy the applicable requirements of this All-Source RFP will be considered a Deficient Submission. GPC, in consultation with the IE and Staff, may choose to reject Deficient Submissions from further consideration.

7.11. Bid Certification. If Bidder is a business entity, an authorized officer of Bidder's company must electronically sign the submitted Bid(s) through the Bid Form.

7.12. Duty to Notify GPC of Issues Impacting Submissions. After Participant submits the Submission, Participant must promptly notify GPC in writing of any issue, event, or other development that impacts, or would reasonably be expected to impact, the development, construction, or completion of the Facility associated with the Submission.

7.13. Additional Information. Participant also may supply any additional information not specifically requested in the Bid Form that may be needed for thorough understanding and evaluation of the Submission.

7.14. Bid Assignments. Any Bid Assignment must comply in all respects with the provisions of Exhibit F (*Bid Assignment Guidelines*). Any purported Bid Assignment that does not comply in all respects with the provisions of Exhibit F will be void.

7.15. Bid Withdrawal. Bidder may withdraw its Bid by submitting a Bid withdrawal notice via the "Messages" feature on the IE Website. If Bidder withdraws its Bid after the Bid submission deadline, Bidder will not be permitted to reopen the Bid at a later date. Bidder will not be entitled to a refund of any fees or any Bid Security if Bidder withdraws its Bid.

PART 8. BID EVALUATION AND AWARDED CONTRACTS; COMPANY-OWNED PROPOSAL EVALUATION

8.1. Staff and IE Oversight/Evaluation. In accordance with the RFP Rule, Staff and the IE actively and contemporaneously monitor all aspects of GPC's evaluation process for transparency purposes. Staff and the IE will review all Submissions and conduct an independent evaluation of the Capacity Resources offered to GPC in this All-Source RFP. Staff and the IE are permitted access to all documents and information utilized by GPC in its evaluation. GPC, Staff, and IE will meet to discuss and finalize the Competitive Tier and, after further evaluation of the Competitive Tier, the Short List, including Bids identified for Awarded Contract award and any Company-Owned Proposal identified for inclusion on the Short List.

8.2. Criteria. All Submissions in this All-Source RFP will be evaluated in accordance with the evaluation criteria and structure described in Exhibit H (*Overview of Evaluation Methodology*).

GPC reserves the right to contact any Participant through the IE Website to request additional information on any aspect of a Submission. GPC also reserves the right to request that the IE contact any Participant for additional information or to cure a deficiency identified in a Submission.

8.3. Initial Review. Submissions that are complete and conform to RFP requirements will be ranked and screened on price to eliminate Submissions that are clearly not competitive before detailed economic modeling is performed.

8.4. Competitive Tier Identified. Under the oversight of the IE and Staff, GPC will determine a Competitive Tier that consists of the most competitive Submissions. An appropriate selection of Submissions meeting GPC's requirements will advance as the Competitive Tier for additional evaluation. GPC will further evaluate Submissions included in the Competitive Tier using appropriate production costing methods and models to ensure that all material cost impacts are quantified. GPC may evaluate Submissions against more than one CO2 and fuel scenarios. All Submissions (including Company-Owned Proposals, APA/BTA Bids, and Affiliate Bids) will be considered and evaluated together. As part of its Competitive Tier evaluation, GPC will review generation and transmission costs and Ancillary Service requirements, as appropriate, to determine the Submission's total cost impact. After the detailed transmission and portfolio analysis concludes, the most competitive Submissions will advance to the Short List, which may include one or more Company-Owned Proposals, for final evaluation and advancement. A Participant whose Submission(s) advanced to the Competitive Tier or Short List, or is released from this RFP, will be notified in accordance with the Solicitation Schedule. In addition, all Submissions in the Competitive Tier will undergo a comprehensive environmental review to ensure compliance with the requirements of this RFP, including Exhibit M (*Environmental Site Assessment Requirements*).

8.5. Bidder to Post Bid Security. Bidders with Bids that advance to the Competitive Tier must post Bid Security, as discussed in Section 4.8 (*Bid Security*), before further detailed evaluation may occur.

8.6. Bid Lists. In accordance with the Solicitation Schedule, upon completion of the Competitive Tier evaluation, Participant will be notified if its Submission is on the Short List, Reserve List, or Release List. Using the IE Website, the Evaluation Team will contact each Bidder with a Bid advanced to the Short List to finalize and execute the PPA, APA, or BTA, as applicable. A Submission on the Reserve List is a Submission that is essentially on a waiting list that will continue to be under evaluation and may move on to the Short List if a Short List Participant withdraws or is unable to proceed. A Submission on the Release List was determined to be non-competitive and will no longer be considered for advancement in this All-Source RFP. Release List determinations are final and will not be reconsidered. By the end of the RFP Process, all Submissions not placed on the Release List and not advanced for contracting will be placed on the Reserve List. When GPC executes the winning PPAs, APAs, or BTAs and files the executed Awarded Contracts with the Commission, all unadvanced Bids and Company-Owned Proposals will be placed on the Release List.

8.6.1. Short List. After full evaluation of the Competitive Tier Submissions, successful Competitive Tier Submissions will advance to the Short List. Short-listed Submissions will be re-evaluated and compared before GPC finalizes any decisions regarding its choice of resource(s) to meet identified needs. Each Bidder with a Bid advanced to the Short List for further evaluation must also provide the following information, as applicable and if requested by GPC in consultation with Staff and IE: (i) updates to the construction schedule; (ii) a current Site plan; (iii) equipment delivery schedules; and (iv) any financial and business data associated with the Seller, the Facility, or the PPA, the APA, or BTA, as applicable, that GPC would need to independently make necessary accounting determinations. Requested information may include data supporting the economic life, the fair value, investment tax credits associated with the Facility, or other costs associated with the Facility, including debt specific to the asset proposed. Financial data contained in Bidder's financial statements (e.g., income statements or balance sheets) may also be required.

8.7. Awarded Contract Execution. GPC will award and execute Awarded Contracts (subject to payment of the Winner's Fee) with the Winning Bidders whose Bids are on the Short List. Upon finalization of the Short List, Winning Bidders will be notified and asked to meet with GPC and the IE, and with Staff who choose to participate, to discuss execution of the Awarded Contract. A Winning Bidder will enter into the applicable and conforming pro forma PPA or conforming APA or BTA with GPC. As stated in RFP Section 7.5.7.B (*Material Conformance*) and Section 7.6 (*Additional APA/BTA Information*), GPC will not accept substantive or material changes to the pro forma PPA, APA, or BTA. GPC and Winning Bidder will coordinate to execute the PPA, APA, or BTA, as applicable (subject to the payment of the Winner's Fee), by the date set forth in the Solicitation Schedule. Any remaining non-competitive Submissions will be released in accordance with the Solicitation Schedule.

8.8. Rejection of Submissions. GPC reserves the right, without qualification and in its sole discretion, to reject as non-responsive any Submission for failure to meet any RFP requirement. If GPC discovers that any Bidder violated this All-Source RFP or otherwise violated the spirit and intent of this All-Source RFP, GPC has the right to reject any related Bids, which may also further affect the Bidder's participation in any future programs offered by GPC. By way of example and not by limitation, the following will constitute a non-responsive Bid: (i) a Bid offering non-firm capacity; (ii) an uncured, incomplete, or non-specific Bid; or (iii) a Bid that fails to materially comply with the provisions of the applicable pro forma PPA. GPC further reserves the right, without qualification and in its sole discretion, to decline to enter a PPA, APA, or BTA with any Bidder for any reason. GPC will not refund any Bid Fee or other costs associated with any Bid for any reason, including GPC's rejection of the Bid or failure by Bidder to execute an Awarded Contract.

8.8.1. Rejection of Bid for Failure to Respond or Comply with Deadlines. GPC reserves the right to reject any Deficient Bid at any time if Bidder fails to submit required information, make a required payment, or otherwise provide to GPC any required deliverable by the deadline set forth in this All-Source RFP (and any date in the Solicitation Schedule as revised, if applicable). A question asked by a Bidder regarding a deadline does not extend the deadline. If a Bid is found to be a Deficient Bid, then it may be placed on the Release List and released from this All-Source RFP. GPC is not required to contact any Bidder to obtain any omitted information.

8.8.2. Rejection of Bid for Environmental Concerns. GPC reserves the right to reject any Bid at any time if the siting or construction of the proposed Facility presents an environmental or archeological impact or risk that: (i) cannot be mitigated or overcome within the timeframe of this All-Source RFP; or (ii) potentially undermines GPC's environmental stewardship efforts. The archeological risks and impacts may include, for example, the presence or discovery of any archaeological, historical, religious, or cultural site, place, artifact, or monument.

8.8.3. Rejection of Bid for Failure to Demonstrate Site Control. GPC reserves the right to reject any Bid if Bidder fails to demonstrate Site Control at the time of Bid submission or at any other time during the RFP Process.

8.8.4. Rejection of a Bidder's Request that Conflicts with GPC Policy. If Bidder requests that GPC take any action that conflicts with GPC's business policies and procedures, GPC will not honor Bidder's request and will inform Bidder of the conflict. In such case, GPC may reject the Bid.

8.9. GPC Discretion in Contracting. GPC reserves the right, without qualification and in consultation with the IE and Staff, to reject any, all, or portions of Bids received for failure to meet any criteria, and further reserves the right, without qualification and at its sole discretion, and in consultation with the IE and Staff, to decline to enter into an Awarded Contract with any Bidder. **Any Bidder who submits a Bid in response to this All-Source RFP waives the right to claim any**

recourse against GPC or any of its Affiliates or IE for either rejection of Bidder's Bid(s) or for failure to execute an Awarded Contract for any reason.

8.10. Fees Nonrefundable. Bid Fees submitted by any Bidder will not be refunded (unless otherwise determined in the sole discretion of GPC) in the case of any modification or withdrawal of this All-Source RFP, rejection of any Bid, or failure to execute an Awarded Contract.

PART 9. QUALIFYING FACILITIES

9.1. Qualifying Facility Participation. This section applies to any QF desiring to fulfill part of GPC's capacity needs identified in this All-Source RFP, with the rights and opportunities subject to PURPA and the October 1994 Commission Order in Docket No. 4822 concerning the treatment of QFs, as well as the Commission Rule 515-3-4-.04. For more information on Commission Rules governing QFs and the standard QF contract form, a QF should refer to the applicable Commission Orders in Commission Docket Nos. 4822 and 19279. Participating QFs must complete all required forms as directed through the IE Website. Participating QFs are offered capacity and energy payments on terms equivalent to the total evaluated cost of the last winning Bid or the first displaced Bid as determined most appropriately with each capacity-based RFP, and in accordance with the Commission's Supplemental Order in Docket No. 19279. QFs may direct any questions to the IE Website Q&A portal for response by GPC.

9.1.1. QFs Required to Compete. Any small power production QF sized larger than 30 MW and any cogeneration QF offering to sell more than 30 MW of Contracted Capacity must compete in this All-Source RFP in accordance with the Commission's Rules and Orders in the above-listed dockets.

9.1.2. QFs Not Required to Compete. Any small power production QF sized 30 MW or less and any cogeneration QF offering to sell 30 MW or less of Contracted Capacity need not compete in this All-Source RFP (and therefore should not submit a Bid through the IE Website) but, if desiring to fulfill part of GPC's needs identified in this All-Source RFP, may submit a QF notice of intent (QF NOI) through the IE Website by the Bid Due Date specified in the Solicitation Schedule. QFs may not be subdivided into multiple parts to qualify for the 30 MW-or-less exemption.

A. Submission Requirements. Each QF that submits a QF NOI must also provide information suitable for GPC to establish that the entity is a QF (e.g., a FERC Form 556). The QF must also provide GPC with the following information:

- Location of the generation Facility
- Expected output of the Facility
- Fuel and Technology type
- Operational Characteristics (anticipated load Profile)
  - capacity factor
  - dispatchability (ability to schedule energy output)
  - availability factor
- Cost of Energy Delivered (Variable O&M and Fuel)
- Projected life of the Facility (requested term of the PPA)
- Designation as a small power production QF or cogeneration QF

PART 10. CERTIFICATION

10.1. Awarded Contract Certification. Following completion of the All-Source RFP evaluation and award process, GPC will seek Commission Certification, under O.C.G.A. § 46-3A-4, of each Awarded Contract executed with this All-Source RFP. The Certification process will take place under a separate Commission Docket and may take up to six months to complete, unless otherwise expedited by the Commission Order. GPC's performance of an Awarded Contract is conditioned on the Commission issuing a certificate approving the Awarded Contract in a timely

manner without material qualification or condition adversely affecting GPC; otherwise, the Awarded Contract will provide that GPC may terminate the PPA without any further obligation. In addition to GPC's Awarded Contract obligations being contingent on Commission approval, GPC's obligations are also contingent upon GPC continuing to have a need for capacity and energy for the identified need years.

10.1.1. FERC Acceptance. Performance of an Awarded Contract is also conditioned upon, if required by applicable law, FERC issuing an order accepting the Awarded Contract in a timely manner and without material qualification or condition adversely affecting either party to the Awarded Contract; otherwise, the Awarded Contract will provide that either party may terminate the Awarded Contract without any further legal obligation.

10.2. Company-Owned Proposal Certification. In accordance with O.C.G.A. § 46-3A-5, and under Commission Rule 515-3-4-.07(2), if a Company-Owned Proposal advances, it will be submitted for Certification together with other winning Bids, and the IE will testify regarding its evaluation of the Company-Owned Proposal. The Commission's certificate approving any Company-Owned Proposal will set forth the not-to-exceed cost, which, like the certified cost of any PPA or asset purchase agreement under which GPC acquires a Facility, may not otherwise change, except as allowed by law under O.C.G.A. § 46-3A-7, and only with the Commission's express approval.

EXHIBIT A – DUE DILIGENCE PHASES AND FEES OVERVIEW (APA AND BTA BIDS ONLY)

PART 1 BID INFORMATION.

1.1 Identification of Critical Due Diligence Topics for First Due Diligence Phase. At the time of Bid submission, an APA/BTA Bidder must: (i) provide the APA/BTA Due Diligence Checklist available on the IE Website and required accompanying documents; and (ii) recommend additional critical due diligence topics that the Evaluation Team should include in the first due diligence phase ("**Phase One Due Diligence**") described in this Exhibit A. If Bidder is proposing an APA, Bidder must identify known plant equipment and operational concerns (e.g., vibrations, recurring problems or failures, needed maintenance, cracked turbine blades) and known legal or environmental issues concerning the Facility so key issues that could affect life-cycle cost or Facility reliability can be addressed early in the due diligence process.

PART 2 INITIAL ECONOMIC SCREEN ($20,000 FEE).

2.1 Bid Fee. Each Bidder must submit a non-refundable Bid Fee ($20,000) with each Bid in accordance with RFP Section 7.4.3 (*Bid Fees*) before the Evaluation Team will begin evaluating the Bid.

2.2 Screening Overview. If a Bid advances past the initial economic screening, the Bid will proceed through the additional due diligence steps outlined in the following sections of this Exhibit A.

PART 3 PHASE ONE DUE DILIGENCE ($50,000 FEE).

3.1 Fee Requirement. Bidder must submit a Phase One Due Diligence Fee of $50,000 in addition to the required Bid Fee ($20,000) by no later than the Bid Due Date shown in the Solicitation Schedule. The total initial payment required for APA/BTA Bids is $70,000, which is the *sum* of: (i) the $20,000 Bid Fee; *plus* (ii) the $50,000 Phase One Due Diligence Fee.

3.2 Phase One Due Diligence Overview. Phase One Due Diligence will consist of "fatal flaw assessment" to determine if there are significant issues with the APA/BTA Bid that would call into question the value of the asset. The Phase One Due Diligence review will be preliminary and will include the following:

A. APA Phase One Due Diligence

(i) Technical and engineering review of APA Due Diligence Checklist and accompanying documents, including

review of major equipment and balance of plant components.

(a) For items requested in the APA Due Diligence Checklist and required accompanying documents that Bidder does not provide with the Bid Submission, Bidder must explain in writing why Bidder did not submit the information. Bidder must provide to the Evaluation Team for review, any applicable information or supporting documentation that Bidder obtains during due diligence.

(ii) Review of independent engineering report.

(iii) Site design and engineering review.

(iv) Review of Bidder-identified due diligence topics.

B. BTA Phase One Due Diligence

(i) Technical and engineering review of BTA Due Diligence Checklist and accompanying documents, including review of major equipment and balance of plant components.

(a) For items requested in the BTA Due Diligence Checklist and required accompanying documents that Bidder does not provide with the Bid submission, Bidder must explain in writing why Bidder did not submit the information. Bidder must provide to the Evaluation Team for review, any applicable information or supporting documentation that Bidder obtains during due diligence.

(ii) Proposed Site design and initial engineering review.

(iii) Review of Bidder-identified due diligence topics.

3.3 Refund or Credit of Unused Fee. If GPC does not expend the entire $50,000 Phase One Due Diligence Fee, GPC will refund the unused portion to Bidder or credit the balance as payment toward the Phase Two Due Diligence Fee, as applicable.

PART 4 PHASE TWO DUE DILIGENCE (UP TO $800,000 FEE).

4.1 Fee Requirements. If the Bid satisfies the Phase One Due Diligence review and advances to the Competitive Tier, then, to proceed with the second due diligence phase ("**Phase Two Due Diligence**"), Bidder must submit an initial Phase Two Due Diligence Fee of $400,000, less any credit from the Phase One Due Diligence Fee that is applied toward the initial Phase Two Due Diligence Fee. To proceed to Phase Two Due Diligence, Bidder must pay the initial Phase Two Due Diligence Fee by no later than 15 Business Days after the Bid advances to the Competitive Tier. If the costs of Phase Two Due Diligence exceed the initial Phase Two Due Diligence Fee amount of $400,000, the Evaluation Team will request from Bidder, by no later than 10 Business Days before the deadline for refreshed Submissions for Competitive Tier as shown in the Solicitation Schedule, a second Phase Two Due Diligence Fee of $400,000. Bidder must submit the second Phase Two Due Diligence Fee by no later than the deadline for refreshed Submissions for Competitive Tier as shown in the Solicitation Schedule. The total Phase Two Due Diligence Fee will not exceed $800,000, which is the *sum* of: (i) the initial Phase Two Due Diligence Fee of $400,000; *plus* (ii) the second Phase Two Due Diligence Fee of $400,000.

A. In addition to a detailed review of all pertinent documentation associated with any APA/BTA Bid, Phase Two Due Diligence will require on-Site visits by GPC, including GPC representatives with experience in areas required for an adequate assessment of the proposed resource, including the following:

(i) Technical Services

(ii) Accounting and Finance

(iii) Operations & Maintenance

(iv) Environmental and Natural Resources

(v) Safety and Health

(vi) Risk Management

B. The Evaluation Team will continue its review of additional documentation provided by Bidder, including:

(i) Bidder's proposed APA/BTA mark-ups;

(ii) Site-specific documentation (e.g., permits, surveys, EPC information, etc.); and

(iii) All available existing and proposed legal documents impacting the transaction (initial review).

4.2 Refund or Credit of Unused Fee. If GPC does not expend the entire second Phase Two Due Diligence Fee, GPC will refund the unused portion to Bidder or apply the balance as a credit toward the Phase Three Due Diligence

Fee, as applicable.

PART 5 PHASE THREE DUE DILIGENCE ($135,000 FEE).

5.1 Fee Requirement. If the Bid satisfies the Phase Two Due Diligence review, and if Bid advances to the Short List, Bidder must submit the Phase Three Due Diligence Fee of $135,000, less any credit from the Phase Two Due Diligence Fee, to proceed to the third due diligence phase ("**Phase Three Due Diligence**") and remain on the Short List. The Phase Three Due Diligence Fee is due no later than five Business Days after Short List notification.

A. In addition to a review of all pertinent documentation associated with any APA/BTA Bid, the need and extent of Phase Three Due Diligence review will depend upon the results of earlier due diligence phases and the extent of any area requiring further assessment. Phase Three Due Diligence will include detailed review of:

(i) Detailed risk assessment;

(ii) Accounting, finance, and tax review (including any expected tax credits or impacts);

(iii) Federal regulatory strategy and assessment;

(iv) Final, detailed legal review of all existing and proposed legal documents impacting or regarding the transaction; and

(v) Possible on-Site visits by the GPC team, including personnel from all GPC areas required for an adequate assessment of the proposed resource.

5.2 Refund or Credit of Unused Fee. If GPC does not expend the entire Phase Three Due Diligence Fee, GPC will refund the unused portion to Bidder or apply the balance as a credit toward the Winner's Fee, as applicable.

PART 6 FEE CAP; BID BOND.

6.1 Winning Bids; Bid Bond Return. If Bidder and GPC execute an Awarded Contract, Bidder must pay all Due Diligence Fees, up to a maximum of $985,000, and GPC will release the Bid Security.

6.2 Bid Security Forfeiture for Bidder Withdraw. If Bidder withdraws its Bid, GPC will return any unused portion of the Due Diligence Fees paid, if any remaining, and Bidder will forfeit the Bid Security in accordance with RFP Section 4.8 (*Bid Security*).

PART 7 DUE DILIGENCE FEES WIRING INSTRUCTIONS

Wiring Instructions. Bidder must pay to GPC all Due Diligence Fees described in this Exhibit A in accordance with the wiring instructions available on the IE Website. Due Diligence fees sent to any other address will be rejected.

EXHIBIT B – INTERCONNECTION AND DELIVERY REQUIREMENTS

Each Bidder is responsible for determining all transmission interconnection and delivery-related rules, practices, and policies with which Bidder must comply. Each Bid must comply with the general requirements outlined in Part 1 (*Interconnection and Delivery Requirements – General*) of this Exhibit B and with one of the interconnection options described in Parts 2 (*Interconnection with the Southern Company Transmission System (>40 kV)*), 3 (*Interconnection to the Electric System of an ITS Participant (>40 kV)*), or 4 (*Interconnection of a Non-ESS Facility Outside the STT (PPA Bidders Only)*) of this Exhibit B.

PART 1 INTERCONNECTION AND DELIVERY REQUIREMENTS – GENERAL

The following interconnection requirements apply to all Bids, regardless of Facility location.

1.1 Transmission Projected Commercial Operation Date. GPC may decline to advance a Bid to the Short List or to execute an Awarded Contract with any Bidder if, in GPC's opinion, the transmission facilities cannot be constructed in time to achieve Commercial Operation or Closing, as applicable, by the date set forth in the Solicitation Schedule. Except for the provision in Section 2.7 (*Facility Interconnecting Directly to GPC*) of this Exhibit B for a Facility interconnecting to the Southern Company Transmission System via GPC, Bidder assumes all interconnection and delivery lead-time risk (if applicable) to meet the RCOD or RCD, as applicable.

A. Bid Price Assumptions. If the Facility's POI is not on the Southern Company Transmission System, each Bid must state the assumptions regarding interconnection and delivery costs that are included in the Bid price. Specifically, each Bid must include details of these costs and refer to any completed or active Interconnection Study results related to the Facility.

B. Bid Lead-Time Assumptions. Each Bid must describe the Facility's current status within the applicable interconnection process and Bidder's ability to meet the RCOD, or RCD in the case of an APA or a BTA, based upon the applicable interconnection process timeline.

C. Interconnection Agreement Required. Each Winning Bidder must enter into an IA with the appropriate Interconnection Provider, depending on the geographic location and interconnection configuration of the Facility. Each Bidder must contact the appropriate Interconnection Provider to obtain all relevant information and interconnection requirements. **The submission of a Bid in response to this All-Source RFP does not constitute an interconnection request or an IA**. Bidder is solely responsible for all fees, deposits, and other charges regarding Bidder's interconnection request and the IA. At any point in time, the Facility is prohibited from delivering output to the Point of Delivery that exceeds the lesser of the Generating Capacity or the Interconnection Limit.

D. Timing and Notification of Initiating Interconnection Process (New Facility). At the time of Bid submission, Bidder must indicate if there is an existing interconnection request for the Facility (either in active study stage or if there is an IA that is in suspension), and if so, Bidder also must identify the Interconnection Provider, request number/identifier, and status. If Bidder has an IA in suspension, Bidder must initiate the process with the appropriate Interconnection Provider to move out of suspension and back to active status by no later than seven Days after notification that the Bid advanced to the Short List. If Bidder has not submitted an interconnection request as of the date of the Bid's advancement to the Competitive Tier, Bidder must initiate the interconnection process with the appropriate Interconnection Provider no later than seven Days prior to Short List determination as set forth in the Solicitation Schedule. Further, Bidder is responsible for understanding applicable timing requirements associated with submitting an interconnection request and obtaining an Interconnection Agreement from the applicable Interconnection Provider and any related risk to meeting the RCOD, or RCD in the case of an APA or a BTA, of this RFP.

PART 2 INTERCONNECTION WITH THE SOUTHERN COMPANY TRANSMISSION SYSTEM (>40 KV)

The following requirements apply to a Bid for a Facility interconnecting to the transmission system of GPC or one of its regulated electric utility Affiliates (i.e., Alabama Power or Mississippi Power) with a Point of Interconnection at greater than 40 kV.

2.1 Procedure Guidance. If the Facility will interconnect to the Southern Company Transmission System, Bidder's interconnection request will be subject to the rules set forth in either FERC Order No. 2003 ("**Order 2003**") or FERC Order No. 2023 ("**Order 2023**"), as described below:

A. For Bids with an active interconnection request and a Facilities Study agreement executed on or before 03/05/2024, Bidder may continue with that interconnection request under the Order 2003 process and obtain an LGIA under Order 2003;

B. For Bids with an active interconnection request that executed a System Impact Study agreement on or before 01/16/2024, Bidder may elect to continue that interconnection request through the Transitional Serial Facilities Study and obtain an LGIA under Order 2023 by December, 2024;

C. For Bids with an active interconnection request that did not commence System Impact Study on or before 01/16/2024 or those assigned a queue position on or before 04/04/2024, Bidder may elect to participate in the Transitional Cluster Study and obtain an LGIA under Order 2023 by May, 2025;

D. Other Bidders who do not already have a queue position, but wish to enter the Transitional Cluster Study, may want to submit an interconnection request for their Facility by 03/15/2024 to minimize risk of not being granted a queue position by the close of the Transitional Cluster Study request window on 04/04/2024;

E. Absent further guidance regarding Order 2023, all other Bidders with Bids advanced to the Competitive Tier must submit an interconnection request for the 2025 annual Cluster Study. Queue positions for the 2025 annual Cluster may be assigned beginning 03/03/2025, and the 2025 annual Cluster Request Window will remain open for 45 Days. GPC recommends obtaining a queue position for the 2025 annual Cluster sooner rather than later within the 2025 annual Cluster Request Window to minimize risk of being deemed withdrawn and excluded from the 2025 annual Cluster. Bidders who elect to wait for the 2025 annual Cluster to submit an interconnection request may experience difficulty in meeting the earlier RCOD or RCD of this RFP, as applicable.

F. NOTE TO ALL BIDDERS: All dates in this RFP regarding Order 2023 are subject to change until FERC's approval of Southern Companies' compliance filing. As a result, Bidders should consult Southern Company's OASIS website (http://www.oatioasis.com/SOCO/index.html) for the most accurate and up-to-date information regarding Southern Companies' implementation of Order 2023.

2.2 Evaluation Assumptions. Bid evaluation will assume that large generator interconnection procedures ("**LGIP**") apply and that Bidder has executed or will execute a large generator interconnection agreement (**"LGIA**"). The Southern Company Transmission System includes facilities owned by GPC or one of its regulated electric utility Affiliates (Alabama Power or Mississippi Power). Each Bidder must determine all rules, practices, policies, and timelines with which its Facility must comply to interconnect with the Southern Company Transmission System. Bidder may obtain additional information on Southern Company's OASIS website at: http://www.oatioasis.com/SOCO/index.html.

2.3 Bidder Cost Responsibility. If the Facility will interconnect with the Southern Company Transmission System, Bidder is responsible for all Interconnection Study-related costs, in addition to the interconnection costs and risk up to the POI. Interconnection costs generally include equipment such as the Facility generator step-up (**GSU**) transformer (for conversion up to the interconnecting voltage level), Facility-side generator interrupting device, all Station Service equipment, tie-line (which carries electrical power and communications), and any additional equipment (such as a utility-owned interrupting device and metering needed to connect to the transmission facilities), as well as any additional real property for the interconnection substation and access, and any operation and maintenance expenses and administrative costs. In addition, if applicable, Bidder is responsible for the cost, risk, and coordination of all Affected System Upgrades. It is Bidder's responsibility to determine and consider all information regarding interconnection costs in preparing its Bid.

2.4 Interconnection Impacts.

A. Southern Company Transmission System Interconnection Costs. Interconnection impacts to the Electric System are unique to the specific design and location of each Facility and may require new or modified equipment beyond the POI. For a Facility interconnecting to the Southern Company Transmission System, any interconnection costs for new or modified equipment on the Southern Company Transmission System beyond the POI (refundable "Network Upgrades" under the LGIP/LGIA) will be imputed to the Bid during the Bid evaluation and should not be included in the Bid price. However, as stated above in Section 2.3 (*Bidder Cost Responsibility*) of this Exhibit B any costs associated with Affected System Upgrades are solely Bidder's responsibility and will not be reimbursed by GPC.

B. SCS LGIA Costs. A Winning Bidder (i.e., Seller) may be required under the terms of its SCS LGIA to fund or provide security for new or modified equipment beyond the POI (interconnection costs beyond the POI that are

refundable "Network Upgrades" per the LGIP/LGIA). However, if Seller incurs such interconnection-related costs for new or modified equipment on the Southern Company Transmission System beyond the POI, after the Facility achieves Commercial Operation or Closing is achieved, as applicable, the costs will be refunded to Seller or security will be released in accordance with LGIA terms and Southern OATT.

C. Affected System Interconnection Costs. If a winning Bid has interconnection impacts to any Affected System, such that the Affected System must add, modify, or upgrade its Electric System, Bidder must coordinate with the Affected System with respect to identifying, planning, and construction of, and payment of costs for, the additions, modifications, or upgrades. Bidders must contemplate the schedule and cost impacts in each Bid. Any interconnection costs related to the Affected System are Bidder's sole responsibility and will not be reimbursed by GPC. Any reimbursement for these costs is a matter strictly between the Affected System and Bidder.

2.5 Delivery Impacts. For Bids advanced to the Competitive Tier, GPC will develop a cost estimate for Electric System improvements, if any, to the Southern Company Transmission System, the Georgia ITS, or both that are necessary to deliver the energy from the POI to GPC's customers. These costs will be imputed to the Bid. If Electric System improvement costs are anticipated to be incurred by GPC beyond the POI (including any GPC obligation for payment to ITS Participants or other Electric System owners) to deliver the full output of the Facility, Seller must deliver to GPC Upgrade Security in the amount of the cost to make the improvements as determined by GPC as of the Awarded Contract Effective Date. To the extent an ITS Participant or other Electric System owner has not notified GPC of such costs before the Awarded Contract Effective Date, GPC may refine the cost estimate and will notify Seller of any change required to the amount of Upgrade Security. Seller must update the amount of the Upgrade Security (either by amending the Upgrade Security or by providing replacement Upgrade Security) within 10 Business Days after receiving the updated cost information. After the Facility achieves Commercial Operation or Closing, as applicable, GPC will return the Upgrade Security to Seller. Alternatively, in the event of early termination of the PPA prior to Commercial Operation or early termination of an APA or BTA prior to Closing, as applicable, GPC may draw upon the Upgrade Security, subject to repayment in accordance with any applicable OATT.

2.6 Construction of Southern Company Transmission System Facilities. Any Electric System improvement, modification, or new facility that will become part of the Southern Company Transmission System must be owned by, and will be designed, procured, and constructed by, as applicable, Georgia Power, Alabama Power, or Mississippi Power.

2.7 Facility Interconnecting Directly to GPC. The following provisions apply only to a Facility interconnecting directly with GPC.

A. Land and Property Rights. A Winning Bidder whose Facility will interconnect with GPC must timely coordinate with GPC's land acquisition department to obtain and provide to GPC, at Bidder's cost, suitable real property (fee simple or easement, as will be designated during the Interconnection Study process) in an acceptable location for the Interconnection Facilities, along with an Access Route to the ICF Site acceptable to GPC, as well as any necessary encroachment agreement, consent, or similar document. All necessary property right documents must be acceptable to GPC and on its standard terms and conditions, and all property rights documentation must be timely obtained, negotiated, and executed. During the Interconnection Study process, GPC and Bidder will discuss and agree upon Interconnection Facilities and Access Route siting. Bidder also must coordinate with GPC to prepare to GPC's satisfaction the property (e.g., grading and preparation of the ICF Site and suitable Access Route) and turn access to the property over to GPC by no later than one year before the projected transmission in-service date. After initial preparation of the Access Route, a Winning Bidder who enters into an Awarded Contract must also: (i) regarding Awarded Contracts that are PPAs, maintain, at its own expense, the Access Route in accordance with GPC's standards and to GPC's satisfaction throughout the PPA Term; and (ii) regarding Awarded Contracts that are APAs or BTAs, validly transfer all real property rights required by GPC for access to and maintenance of the ICF Site and the Interconnection Facilities.

B. Notice to Proceed. Notice to proceed requirements for a Winning Bidder whose Facility will interconnect with GPC depend on the interconnection request/IA status when the Commission issues the Certificate of Public Convenience and Necessity:

(i) A Winning Bidder with an active IA (i.e., IA not in suspension) must submit a notice to proceed to initiate construction of Interconnection Facilities by no later than 14 Days after the Commission Certification;

(ii) If Winning Bidder's Facility is the subject of an IA in suspension, Bidder must have requested to come out of suspension within seven Days after advancement to the Short List as described in Section 1.1.D (*Timing and Notification of Initiating Interconnection Process (New Facility)*) of this Exhibit B; or

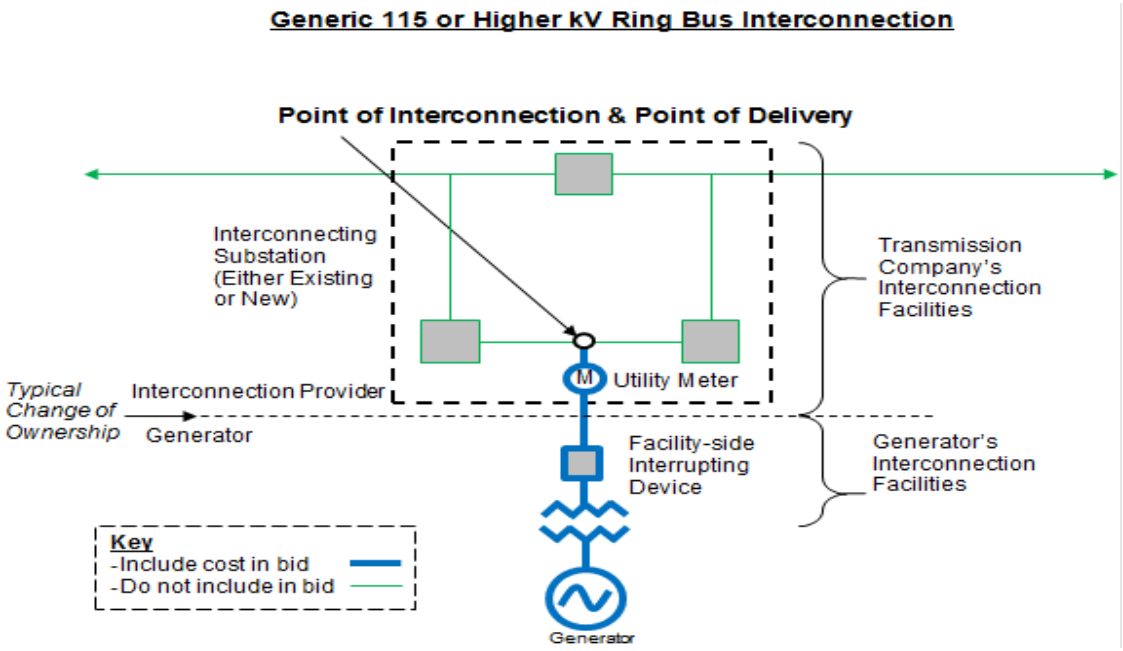
(iii) If the interconnection request is still in study phase or if not in suspension but the IA has not been finalized, then by no later than 45 Days after the IA is provided to Bidder for execution, Bidder must submit a notice to proceed to initiate construction of Interconnection Facilities. Depending upon when Bidder initiates the interconnection process, Bidder may be required to enter into an engineering and procurement agreement with GPC to assume cost responsibility and allow pre-construction activities, such as engineering work and procurement of long lead-time materials, to commence prior to execution of the IA.

2.8 Additional Guidance for Facilities Interconnecting to the Southern Company Transmission System.

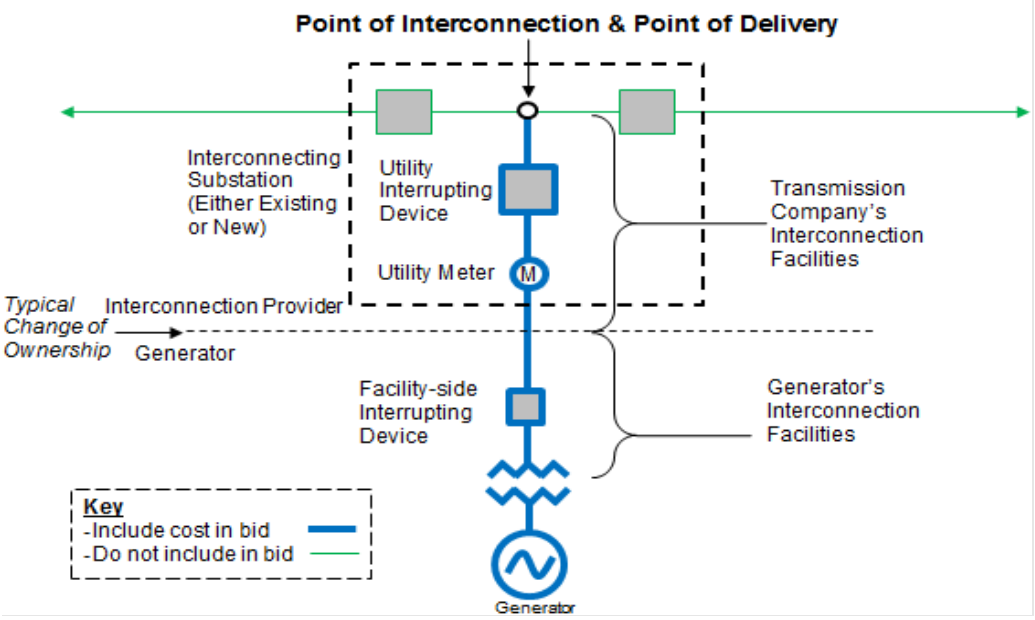
A. POI. The POI refers to the point where the Interconnection Facilities connect to the Interconnection Provider's Electric System. The POI is not necessarily the same as the point of change of ownership of equipment.

B. Sample Diagrams. The example diagrams below are offered to assist Bidder in determining where the POI could be located for its Facility.

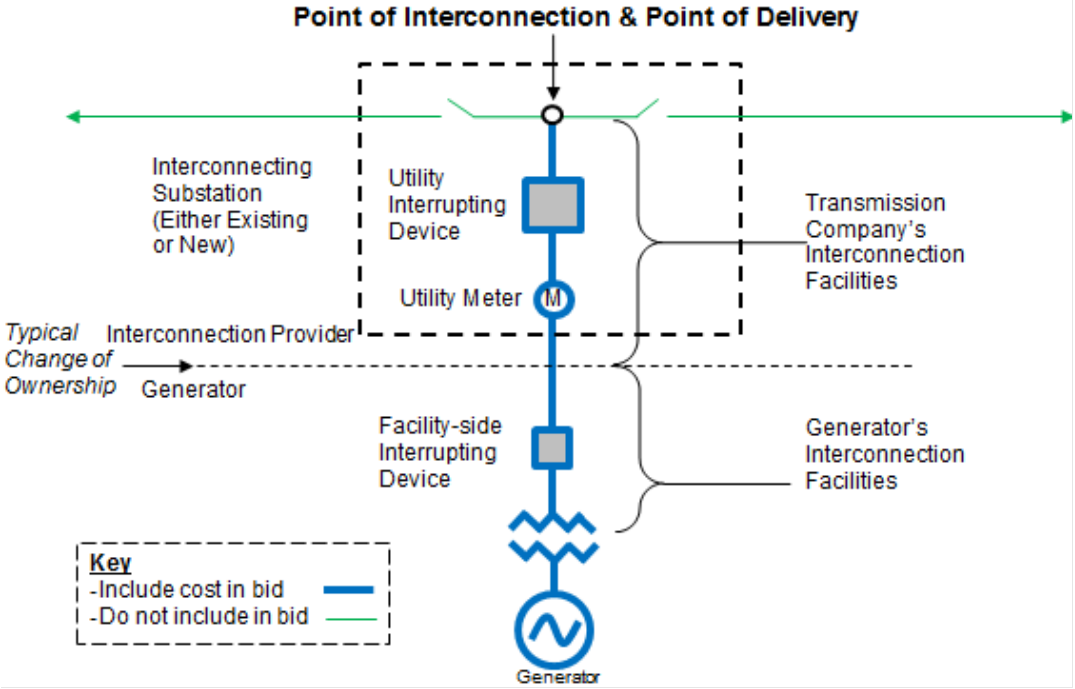
C. Additional Information. Information regarding interconnection to the Southern Company Transmission System may be found at Southern Company's OASIS website at https://www.oasis.oati.com/SOCO. Information about Seller's interconnection under the Southern OATT can be found in the *Generator Interconnection* folder on the Southern Company OASIS home page. A few examples of documentation include Interconnection Requirements for Inverter-Based Generation, Generator Interconnection Business Practices, and Inverter-Based Electric Storage Operating Policy. If Bidder needs further clarification, please use the question-and-answer process available on the IE Website.



Generic Transmission Straight Bus Interconnection



Generic 115 kV Line or 46 kV Line Tap Interconnection



PART 3 INTERCONNECTION TO THE ELECTRIC SYSTEM OF AN ITS PARTICIPANT (>40 KV)

The following requirements apply to a Bid for a Facility interconnecting with the transmission system of an ITS Participant (GTC, MEAG Power, or Dalton) with the POI at greater than 40 kV.

3.1 Procedure Guidance. If the Facility will interconnect to a transmission facility owned by an ITS Participant, Bidder's interconnection application and Interconnection Agreement will be with the applicable ITS Participant. Each

ITS Participant utilizes its own Interconnection Study process and Bidder is responsible for determining all rules, practices, policies, and timelines with which it must comply to obtain an Interconnection Agreement with the ITS Participant. If Bidder has not submitted an interconnection request as of the date the Bid advances to the Competitive Tier, Bidder must initiate the interconnection process with the appropriate Interconnection Provider at least seven Days before the Short List determination date stated in the Solicitation Schedule.

3.2 Bidder Cost Responsibility. If Bidder's Facility will interconnect with an ITS Participant, Bidder is responsible for all Interconnection Study-related costs, in addition to any interconnection costs and risks up to and beyond the POI associated with any ITS Participant (non-GPC)-owned transmission facilities. Interconnection costs generally include equipment such as the ITS Participant-owned interconnection substation, the GSU transformer (for conversion up to the interconnecting voltage level), Facility-side generator interrupting device, all Station Service equipment, tie-line (which carries electrical power and communications), and any additional equipment (such as a utility-owned interrupting device and metering needed to connect to the Interconnection Facilities), as well as any additional real property for the interconnection substation and access and any operation and maintenance expenses and administrative costs. In addition, if applicable, a Winning Bidder is responsible for the costs, risks, and coordination of Affected System Upgrades. It is Bidder's responsibility to determine and review all information regarding interconnection costs.

3.3 Interconnection Impacts. Interconnection impacts to the Electric System are unique to the specific design and location of each Facility and may require new or modified equipment beyond the POI. If a Facility is interconnecting with an ITS Participant, GPC will not impute to the Bid any costs for any new or modified ITS Participant-owned or Affected System-owned transmission Interconnection Facilities beyond the POI. Those costs must be determined by Bidder and may be included in the Bid price. Any reimbursement for these costs is a matter strictly between the ITS Participant or Affected System and Bidder. However, any costs beyond the POI on the Southern Company Transmission System (i.e., one of the Southern Companies is an affected system to the Interconnection Provider) will be imputed to the Bid during the Bid evaluation and should not be included in the Bid price. In this circumstance, Seller must provide payment or security for design, procurement, and installation of the new or modified equipment beyond the POI on the Southern Company Transmission System according to the terms of an affected system construction agreement with the applicable Southern Company Transmission System owner. If the Facility achieves Commercial Operation or Closing occurs, as applicable, the security will be returned to Seller or repayment will be made according to the affected system construction agreement or the Southern OATT, as applicable.

3.4 Delivery Impacts. For Bids advanced to the Competitive Tier, GPC will develop a cost estimate for Electric System improvements, if any, to the Southern Company Transmission System, the Georgia ITS, or any other Electric System necessary to deliver the energy from the POI to GPC's customers. These costs will be imputed to the Bid when evaluating the economics of the Bid. If Electric System improvement costs are anticipated to be incurred by GPC to deliver the full output of the Facility (including any GPC obligation for payment to ITS Participants or other Electric System owners), Seller must deliver to GPC Upgrade Security in the amount of the costs to make the improvements as determined by GPC as of the Effective Date of the Awarded Contract. To the extent an ITS Participant or other Electric System owner has not notified GPC of such costs before the Effective Date of the Awarded Contract, GPC may refine the cost estimate and will notify Seller of any change required to the amount of Upgrade Security. Seller will update the amount of the Upgrade Security (either by amending the Upgrade Security or by providing replacement Upgrade Security) within 10 Business Days after receiving the updated cost information. After the Facility achieves Commercial Operation or Closing, as applicable, GPC will return the Upgrade Security to Seller. Alternatively, GPC may draw upon the Upgrade Security in the event of early termination of the PPA prior to Commercial Operation or early termination of an APA or BTA prior to Closing, as applicable, subject to repayment in accordance with any applicable OATT.

PART 4 INTERCONNECTION OF A NON-ESS FACILITY OUTSIDE THE STT (PPA BIDDERS ONLY)

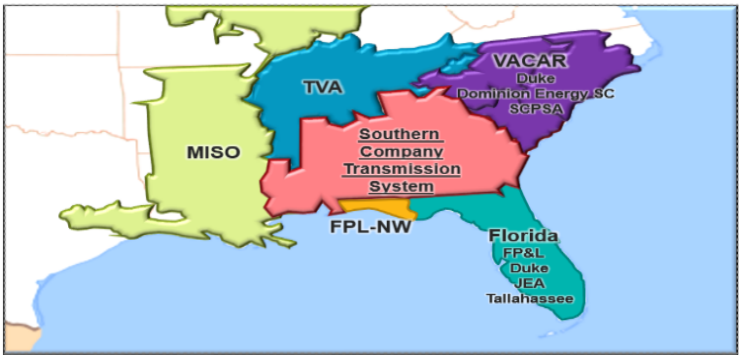
The following requirements apply to a Bid for a Facility that is not an ESS and is not interconnecting directly to the Southern Company Transmission System or to the Georgia ITS.

4.1 Bidder Cost and Compliance Responsibility. Bidder is responsible for all costs and risks, including interconnection and delivery, and coordination necessary to transmit energy from the Facility to the selected Southern Transmission Interface, if necessary. These costs can include transmission and distribution costs, scheduling costs, generation and energy imbalance costs, congestion charges, operating reserve charges, and the costs of rights to utilize the Electric System. Each Bidder must procure Firm Transmission Service for the full output of the Facility to effectuate delivery to the selected Southern Transmission Interface. Each Bid must identify the Southern Transmission

Interface to which the Facility will deliver. Bidder is responsible for determining all transmission-related rules, practices, and policies with which it must comply for both interconnection and delivery to the selected Southern Transmission Interface.

4.2 Delivery to Southern Transmission Interface. GPC encourages each Bidder to begin any TSR process from the POI to the selected Southern Transmission Interface as early as possible. In any event, to procure the required Firm Transmission Service, Bidder must initiate the TSR process with the appropriate provider at least seven Days before the Short List determination date stated in the Solicitation Schedule. Bidder must describe in its Bid its ability to meet the RCOD, based upon the applicable Firm Transmission Service process timeline for delivery to the selected Southern Transmission Interface.

A. For this All-Source RFP, a Southern Transmission Interface is defined as a point where the Southern Company Transmission System connects to a neighboring Transmission Service Provider and can receive Firm Transmission Service deliveries from the Transmission Service Provider. The Southern Transmission Interface has five primary interfaces: TVA, VACAR, Florida, MISO, and FPL-NW. ***For avoidance of doubt***, ***the map below is not intended to indicate that the Georgia ITS, PowerSouth Energy Cooperative, or Crisp County, Georgia are included in the Southern Company Transmission System***.



B. Although Bidder is responsible for all costs and risks to deliver to the selected Southern Transmission Interface, there may be additional costs to deliver from the selected Southern Transmission Interface to GPC's customers. These costs should not be included in the Bid price. However, GPC will impute these costs to the Bid.

4.3 Interconnection Impacts. Interconnection costs for a Facility not interconnecting directly to the Southern Company Transmission System or to the Georgia ITS will not be imputed to the Bid during the Bid evaluation; all those costs and risks are Bidder's responsibility and may be included in the Bid price. Any reimbursement for these costs is a matter strictly between the Electric System owner and Bidder. However, interconnection costs beyond the POI on the Southern Company Transmission System (i.e., one of the Southern Companies is an affected system to the Interconnection Provider), if any, will be imputed to the Bid during the Bid evaluation and should not be included in the Bid price. In this circumstance, Seller must provide payment or security for the new or modified equipment on the Southern Company Transmission System beyond the POI according to the terms of an affected system construction agreement that would be executed by Bidder and the applicable Southern Company Transmission System owner. If the Facility achieves Commercial Operation, the security will be returned to Seller or repayment will be made according to the affected system construction agreement or the Southern OATT, as applicable.

4.4 Delivery Impacts. For Bids advanced to the Competitive Tier, GPC will develop a cost estimate for Electric System improvements, if any, to the Southern Company Transmission System, the Georgia ITS, or any other Electric System necessary to deliver the energy from the selected Southern Transmission Interface to GPC's customers.[1] These costs will be imputed to the Bid when evaluating the economics of the Bid. If Electric System improvement costs are anticipated to be incurred by GPC to deliver the full output of the Facility, (including any GPC obligation for payment to ITS Participants or other Electric System owners), Seller must deliver to GPC Upgrade Security in the amount of the costs to make the improvements as determined by GPC as of the Effective Date of the Awarded Contract. To the extent an ITS Participant has not notified GPC of such costs before the Effective Date of the Awarded Contract, GPC may refine the cost estimate and will notify Seller of any change required to the amount of Upgrade Security. Seller will

[1]This evaluation does not include Electric System modifications, if any, required to deliver the energy from the Facility to a Southern Transmission Interface.

update the amount of the Upgrade Security (either by amending the Upgrade Security or by providing replacement Upgrade Security) within 10 Business Days after receiving the updated cost information. After the Facility achieves Commercial Operation, GPC will return the Upgrade Security to Seller. Alternatively, GPC may draw upon the Upgrade Security in the event of early termination of the PPA prior to Commercial Operation, subject to repayment in accordance with any applicable OATT.

PART 5 INTERCONNECTION AND DELIVERY COSTS IMPUTED.

In all instances Seller will be responsible for interconnection costs from its Facility up to the POI. The table below reflects a summary of interconnection and delivery costs beyond the POI that will be either imputed to the Submission or borne by Seller.

	Interconnection to Southern Company Transmission System	Interconnection to the Electric System of an ITS Participant	Interconnection to an Electric System outside the SBAA
Costs *IMPUTED* to Submission Evaluation	Interconnection costs in Southern Company Transmission System beyond the POI Delivery costs within STT (Southern Company Transmission System + Georgia ITS)	Interconnection costs beyond the POI related to upgrades on Southern Company Transmission System Delivery costs within STT (Southern Company Transmission System + Georgia ITS)	Interconnection costs beyond the POI related to upgrades on Southern Company Transmission System, if any Delivery costs within STT (Southern Company Transmission System + Georgia ITS)
Costs *NOT IMPUTED* to Submission Evaluation (cost borne by Seller)	Any interconnection costs beyond the POI with an ITS Participant or other Affected System	Any interconnection costs other than those related to upgrades on Southern Company Transmission System	Any interconnection costs other than those related to upgrades on Southern Company Transmission System Any TSR or delivery costs from POI to Southern Transmission Interface

EXHIBIT C – ADDITIONAL BID INFORMATION AND QUESTIONNAIRE

This is a summary of information Bidder will need to complete certain fields of the Bid Form. This summary is not all-inclusive, and Bidder may be required to provide additional information.

PART 1 ADDITIONAL BID INFORMATION

Each Bid must supply the following information, as applicable:

1.1 Acknowledgment of several items that demonstrate the Bid meets the requirements of this All-Source RFP and that Bidder understands key provisions of the RFP.

1.2 For a new Facility, a construction schedule with all major activities from the Effective Date to Commercial Operation or Closing, as applicable.

1.3 Status of Interconnection Agreement, including:

A. Detailed description of the interconnection arrangements that have been or will be made to deliver the energy to the STT or to a Southern Transmission Interface and how any identified costs are included in the Bid.

B. If an Interconnection Agreement is not in place, describe the status of the negotiations for the Interconnection Agreement.

C. Indicate the current status regarding property rights for the necessary Interconnection Facilities, including access rights for the Interconnection Provider throughout the PPA Term or for the Facility Design Life, as applicable, and any property rights and permits needed between the Site and the Interconnection Provider's facilities.

1.4 Facility information, including:

A. Name

B. Location

C. Generating Capacity: _____ (MW)

D. Interconnection Limit: _____(MW)

E. Site Plan

F. Site Control Affidavit and Landowner Confirmation

G. Specific technical information (e.g., number of panels, battery containers, generators, turbine information, specification sheets, manufacturer, maintenance schedules)

1.5 For a Bid for an ESS Facility:

A. Facility size (maximum output at POI): _____ (MW)

B. Storage Device Design Capacity (SDDC): _____ (MW)

C. Storage Device Discharge Duration (SDDD): _____ (hours)

D. Storage Device Operating Energy (SDOE): _____ (MWh) (product of (ii)(SDDC) *and* (iii)(SDDD) above)

E. ESS maximum rate of charge: _____ (MW/min)

F. ESS Cycle Limit (per Day, Annual Period, life): ____

G. Guaranteed Round-Trip Efficiency: _____ (%)

H. Renewable Resource size (if applicable): ____ (MW)

I. Nominal Capability: ____(MW)

1.6 For a Bid proposing a thermal generation Facility:

A. Nominal Capability

B. Heat rate

C. Fuel/energy plan(s)

D. Start-up fuel

E. Variable O&M

F. Startup charge

G. Quick-start capability

1.7 Single-line drawings of the Facility

1.8 Appropriate technical information associated with an ESS, if any, including capacity and energy storage specifications, Round-Trip Efficiency, peak auxiliary power consumption, estimated annual auxiliary power consumption, warranty requirements, limitations of use, cold weather conditioning plans, control schemes, device configuration (AC coupled), and whether the inverters are one-directional (AC-DC only) or bi-directional (AC-DC and DC-AC), and the total output of the Facility, including any simultaneous discharge of the ESS, as more fully described in RFP Section 2.4 (*ESS Submissions*).

1.9 Performance data (ESS Bids Only):

A. Maximum capability (MW AC and MW DC) (including any Renewable Resource and ESS)

B. For ESS with Renewable Resource, a Renewable Resource Profile for each Annual Period over the PPA Term or for the duration of the Facility Design Life, as applicable, in Microsoft Excel format

C. For ESS with Renewable Resource, the specifications of what Bidder used to produce the Renewable Resource Profile (summarize model assumptions, probability assumptions, weather assumptions, substation into which Facility is to be interconnected, key inputs, and methodology)

1.10 Interconnection Data:

A. Interconnection Request Number (if any)

B. Single line diagram to Point of Interconnection

C. Narrative of current path or plan for interconnection to the Electric System

D. Impedances, short circuit currents, etc.

E. Generator interconnection tie line data

F. GSU/Main transformer data

G. kV at the Point of Interconnection

H. Estimated/Assumed interconnection costs to Point of Interconnection

I. Detailed description of the interconnection arrangements, including projected timelines for Interconnection Study processes and the construction of Interconnection Facilities

1.11 A description of the number and nature of new jobs, if any, the Project will provide, the amount of new capital investment that will be put into the Project, and other information relevant to economic development stemming from the Project.

1.12 Bid Information:

A. Legal name of contracting party, if known, and immediate upstream parent entity, if applicable

B. Qualifications:

(i) Previous project development experience, including experience providing the proposed product

(ii) Non-binding letter of interest or binding letters of commitment from potential financing or tax equity partners

(iii) Indication if Bidder is formed for the sole purpose of the project and a summary of the proposed Facility's legal ownership structure

1.13 Financial and credit information for Bidder and for Bidder's parent company (if applicable), including:

A. Description of ownership and debt arrangements, including the expected percentage of debt and equity capital that Bidder has committed to secure

B. Annual reports for the past three years and any Form 10-K and 10-Q filings since the period covered in the last annual report. If Bidder is not a publicly traded entity or these documents are not applicable, then audited financial statements for the last three years will be accepted. All financial statements, annual reports, and other large documents may be referenced via a website address. If Bidder has not been in operation for three years, please provide the above information, as applicable, since the beginning of operation

C. Dunn and Bradstreet identification number

D. Credit rating of Bidder's senior debt securities from at least two Rating Agencies

E. Details related to Bidder's banking relationships or liquidity

F. Description of plans for acquiring the necessary funds for developing and operating the Facility, including a discussion of the Facility's legal ownership structure, the expected percentage of debt and equity capital that Bidder has committed to secure, and the identity and credit rating of firms that are likely to provide financing

G. Any additional documentation needed to determine Bidder's financial strength and the strength of any parent entity

1.14 A detailed description of any Eligible Collateral proposed by Bidder to secure its performance obligation.

1.15 Organizational Chart.

1.16 EOP Winter Readiness Plans, as required by Exhibit O (*FacilityTechnical Requirements*).

1.17 Bid pricing information (as applicable, annual capacity price, all-in price, escalation rate, Variable O&M, etc.).

PART 2 PPA BIDDER QUESTIONNAIRE

The Bid Form will require all PPA Bidders to supply the information outlined in this RFP, including information regarding each resource included in a Bid, to include, as appropriate the following:

2.1 Documentation of the Bidder's previous experience providing the proposed product

2.2 A statement that the PPA will not require deconsolidation with GPC as the Primary Beneficiary by the Seller regarding Variable Interest Entity

2.3 PPA Term selection.

2.4 For a Bid proposing to develop a New Resource, a description of the status of all activities necessary to fully develop and implement the New Resource, such as negotiations for partnership agreements, equipment supplier agreements, engineering, procurement, construction (EPC) agreements, fuel transportation and fuel supply agreements, if applicable, all applicable environmental permitting (including the air permit and associated emission levels sought, if applicable), and financing. Bidder must describe in detail all contingencies.

2.5 For a Bid proposing to develop a New Resource, if Bidder cannot demonstrate to GPC's reasonable satisfaction that Bidder possesses the requisite expertise and experience in providing or operating the proposed resource, then Bidder must provide a certification from an independent, registered engineer acceptable to GPC to the effect that Bidder's arrangements are sufficiently firm and binding as to provide a comparable level of experience and expertise in developing and operating the entire proposed resource.

2.6 Statement of whether Bidder has offered or committed the proposed capacity in response to another RFP or otherwise and, if so, how it would be released to satisfy the need in this All-Source RFP.

2.7 Anticipated Commercial Operation Date.

2.8 The following information:

A. A U.S.G.S. 7.5-minute series topographic map indicating the Site and Facility location

B. A one-line diagram of the electrical system depicting the Facility's generator(s) or ESS and inverter, the generator or storage device step-up transformer(s), collector bus(es), high voltage circuit breaker(s), and POI. In addition, each Bidder must clearly mark the proposed POI on the one-line diagram and clearly indicate the line of demarcation between the Facility and the Transmission Service Provider's facilities. A Bidder proposing an ESS with Renewable Resource must indicate on the one-line diagram the Renewable Resource's proposed POI to the Southern Company Transmission System as well as the meter locations: (i) for the ESS to the POI; (ii) for the

Renewable Resource to the ESS when charging; (iii) for the Renewable Resource to the POI; (iv) from the POI to the ESS when grid charging; and (v) for Station Service.

C. A detailed description of the fuel and water supplies, as applicable, (including source, quality, adequacy, and water permits), location and quantity available for CC or CT Bids

D. A thorough description of all anticipated environmental impacts and compliance, for both New and Existing Resources, for the full PPA Term

E. The unit's quick start capability. If bidding this feature, the unit must have the ability to go from first discharge to synchronization in less than 10 minutes. GPC, as buyer, will provide the Seller with five minutes notice to achieve first discharge.

F. Unit design specifications for emissions rates, capacity for each operating mode, as applicable, and maintenance requirements. Where applicable, the information must be provided separately for gas operation and oil operation.

G. For Existing Resources, provide the age of the unit, estimated remaining useful life (years), and major equipment and maintenance requirements, and for CC and CT Bids, recent historical information sufficient to demonstrate the emissions rates and capacity for each operating mode.

H. For ESS Bids, provide the manufacturer, make, and model of the major storage equipment /devices.

I. For a New Resource, a construction schedule with all major milestones and activities from PPA award through Commercial Operation, including permitting activities.

J. Site Control Affidavit.

2.9 Consistent with manufacturer's recommendations, description of any minimum schedule or minimum down time for the Facility and provide the ramp rate and minimum output for the Facility. For gas units, include in the description how the Facility's design accommodates maximum turndown while maintaining emissions within required limits throughout the turndown range.

2.10 Description of any other limitations on the use or availability of the energy.

2.11 Identification of any pre-existing fuel arrangements and whether and how Bidder will assign to GPC its pre-existing fuel arrangements, as applicable. For ESS Bids, identification of any transmission service in place for the proposed Facility.

2.12 For CC or CT Bids, the following information regarding any backup fuel oil capability:

A. Any costs to be borne by GPC related to backup fuel oil.

B. The storage capability of the on-site fuel oil storage tank.

C. The maximum hourly replenishment rate for fuel oil.

D. The permitted equivalent emissions rates while operating on fuel oil.

E. When the Facility is operating on fuel oil, definition of the operational constraints that result from environmental limits specified in the air permit. If there is a limit on the number of annual hours of operation, identify the cumulative hour limit.

F. Whether the capacity has a demineralized water system, or any other systems, that cause an operational limitation for the Facility operating on fuel oil.

G. Any limits, other than the air permit limits, to GPC's rights to schedule the Facility on fuel oil.

2.13 To the extent not covered by the Environmental Compliance Affidavit, a thorough description of anticipated environmental impact and compliance activities.

2.14 VIE (Exhibit J) and Finance Lease Certification (Exhibit K).

PART 3 APA AND BTA BIDDER QUESTIONNAIRE

The APA or BTA Bid Form will require each APA/BTA Bidder to supply the information outlined in this All-Source RFP, including the following information regarding each resource included in the APA or BTA Bid, as appropriate:

3.1 All information requested in the APA/BTA Due Diligence Checklist.

3.2 Facility Design Life.

3.3 Anticipated Required Closing Date.

3.4 For an APA Bid, a description of the status of all activities necessary to complete the sale of the Facility, such as negotiations for creditor agreements, partnership agreements, power purchase agreements (or similar obligations), long-term service agreements ("**LTSA**"), equipment supplier agreements, EPC agreements, fuel transportation and fuel supply agreements, if applicable, permitting (particularly the air permit and associated emission levels), financing, etc. The Bid must describe all contingencies in detail.

3.5 For a BTA Bid, a description of the status of all activities necessary to fully develop and implement the New Resource, such as negotiations for partnership agreements, equipment supplier agreements, engineering, procurement, and construction (EPC) agreements, fuel transportation and fuel supply agreements, if applicable, all applicable environmental permitting (including the air permit and associated emission levels sought, if applicable), and financing. Bidder must describe in detail all contingencies.

3.6 Description of whether the Facility has been offered or committed in response to another RFP or otherwise and, if so, how it would be released to meet this RFP's identified need. Identify any encumbrances on production and delivery of energy from the Facility to GPC.

3.7 The following information:

A. A listing of all appurtenances, inventory, and rights to be assigned with the sale, including gas lateral, substation, Interconnection Facilities, makeup water supplies, ancillary structures and equipment, fuel inventory, spare parts, materials, easements, etc.

B. A U.S.G.S. 7.5-minute series topographic map indicating the plant location.

C. A one-line diagram of the electrical system depicting the Facility's generator(s) or ESS and inverter, the generator or storage device step-up transformer(s), collector bus(es), high voltage circuit breaker(s), and connections to POI. In addition, each Bidder must clearly mark the proposed POI on the one-line diagram and clearly indicate the line of demarcation between the Facility and the Transmission Service Provider's facilities. A Bidder proposing an ESS with Renewable Resource must indicate on the one-line diagram the Renewable Resource's proposed POI to the Southern Company Transmission System as well as the meter locations: (i) for the ESS to the POI; (ii) for the Renewable Resource to the ESS when charging; (iii) for the Renewable Resource to the POI; (iv) from the POI to the ESS when grid charging; and (v) for Station Service.

D. A detailed description of the fuel and water supplies, as applicable, (including source, quality, adequacy, and water permits), location and quantity available, and the pricing and term of associated contracts.

E. A thorough description of all anticipated environmental impacts and compliance, for both new and existing physical resources, for the full Facility Design Life.

F. The unit's quick start capability. If claiming this feature, the unit must have the ability to go from first discharge to synchronization in less than ten minutes with five minutes notice.

G. Unit design specifications for emissions rates, capacity for each operating mode, and expected maintenance requirements. Where applicable, the information will be provided separately for gas operation and oil operation.

H. For APA Bids, provide the age of the unit and major equipment and recent historical information maintenance requirements, and for CC and CT Bids, recent historical information sufficient to demonstrate the emissions rates, capacity for each operating mode

I. For APA Bids, an independent engineer's report for the Facility, performed within the last calendar year including, project description, site arrangement, technology description, key project agreements, O&M history, environmental review, and financial review.

J. To the extent not provided in the independent engineer's report requested in Section (I), as applicable, provide information related to the most current LTSA, including the following:

(i) Current number of factored fired hours and factored starts for each gas turbine;

(ii) Number of factored fired hours and factored starts for each gas turbine at the time of the prior LTSA-covered outage event or inspection (e.g., hot gas path, major inspections, etc.);

(iii) Forecast of factored fired hours and factored starts for each gas turbine at the time of the next LTSA-covered or required outage event or inspection;

(iv) A general description of the LTSA (e.g., whether it covers planned and unplanned maintenance, planned only, etc.);

(v) The total LTSA term obligation and the amount of time remaining in the term of the LTSA;

(vi) Projections of the remaining cash flows relating to the LTSA by fixed and variable or event-based payments; and

(vii) A general description of any LTSA provisions regarding early termination for convenience or sale of the asset.

3.8 Consistent with manufacturer's recommendations, description of any minimum schedule or minimum down time for the Facility, and the ramp rate and minimum output for the Facility. Include in the description how the Facility's design accommodates maximum turndown while maintaining emissions within required limits throughout the turndown range.

3.9 Description of any other limitations on the use or availability of the energy.

3.10 The following information regarding any backup fuel oil capability, as applicable:

A. Any costs to be borne by GPC related to backup fuel oil.

B. The storage capability of the on-site fuel oil storage tank.

C. The maximum hourly replenishment rate for fuel oil.

D. The permitted equivalent emissions rates while operating on fuel oil.

E. When the Facility is operating on fuel oil, definition of the operational constraints that result from environmental limits specified in the air permit. If there is a limit on the number of annual hours of operation, identify the cumulative hour limit.

F. Description of whether the capacity of the demineralized water system, or any other systems, result in an operational limitation for the Facility operating on fuel oil.

G. Description of any limits, other than the air permit limits, that would impact the Facility's ability to be operated on fuel oil.

H. Details concerning the Facility's maintenance of fuel oil inventory.

3.11 APA Bids must also provide operating history, list of spare parts, and existing Facility maintenance agreements.

3.12 APA and BTA Bids must also indicate if Bidder owns: (i) any real property adjacent to the Facility; and (ii) any land where the distribution network for Station Service is located. In each instance, Bidder should indicate if its Bid offers GPC an option to purchase the additional real property.

EXHIBIT D – FORM OF SITE CONTROL AFFIDAVIT AND LANDOWNER CONFIRMATION

#InsertBidder'sLetterhead

#InsertDate

Georgia Power Company
241 Ralph McGill Blvd NE
Bin No. 10196
Atlanta, Georgia 30308

Subject: Georgia Power Company's All-Source RFP – Site Control
Bid No. #BidNumber

Ladies and Gentlemen:
In accordance with the provisions of the Georgia Power Company ("**GPC**") All-Source Capacity Request for Proposals for 2029 – 2031 ("**All-Source RFP**"), #BidderLegalName# a ***OR*** an #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Bidder**"), submits this Site Control Affidavit ("**Affidavit**") in support of Bid No. #BidNumber on its own behalf and on behalf of the counterparty ("**Seller**") that will execute the #Power Purchase Agreement ("**PPA**")***OR***#Asset Purchase Agreement ("**APA**")***OR***#Build Transfer Agreement ("**BTA**"). For Bidder to be eligible to participate, Bidder or Seller, as applicable, must, among other things, possess Site Control, as such term is defined in this Affidavit. Capitalized words used without definition here have the meaning shown in the All-Source RFP.
Bidder represents, warrants, and covenants the following:

1. The Facility described in the Bid will be located at #Insert parcel number and GPS coordinates of the Site ("**Site**"). Unless indicated below, the Interconnection Facilities Site will be on the same property and all references to "Site" below include both the Facility Site and the ICF Site.

   ☐ Site includes ICF Site

   ☐ ICF Site is separate and a separate Site Control Affidavit for ICF Site is attached (using this All-Source Capacity RFP Exhibit D (*Form of Site Control Affidavit and Landowner Confirmation*) template, revised to address ICF Site only)

2. Bidder or Seller, as applicable, has obtained control of the Site in the form specified below ("**Site Control**") (check one). Bidder or Seller:

   ☐ (a) Owns the Site (evidenced by a deed recorded in the county property records)

   ☐ (b) Leases the Site (under a current binding written agreement between Seller and the owner or lessor of the Site)

   ☐ (c) Holds an option to purchase the Site (under a current binding written agreement between Seller and the owner of the Site)

   ☐ (d) Holds an option to lease the Site (under a current binding written option agreement with the owner or lessor of the Site)

   ☐ (e) Holds a current binding easement or license from the owner or lessor of the Site that grants Bidder or Seller express rights to construct, install, operate, maintain, and repair the Facility at the Site.

   If Bidder or Seller has Site Control under 2(b) through 2(e) above, Bidder must submit page 3 of this Affidavit, executed by the owner/ground lessor of the Site ("Landowner") confirming Site Control.

3. The above-selected Site Control is free and clear of any lien, right, contract, or other encumbrance that would prevent, limit, or otherwise impede or impair the construction, installation, or commissioning of the Facility/Interconnection Facilities, as applicable, or the operation, maintenance, or repair of the

Facility during the #PPA Term***OR***#Facility Design Life.

4. To the extent not otherwise addressed in Paragraph 2, Bidder or Seller is or will be the holder of every right-of-way grant, easement, or similar instrument(s) necessary for access to the Site, or otherwise to enable the construction, installation, and commissioning of the Facility and the operation, maintenance, and repair of the Facility during the #PPA Term***OR***#Facility Design Life.
5. The Site is adequate for the Facility and lawfully zoned for the Facility #[*Note to Bidders: the following option is applicable to PPA Bidders only*:], or, if not already appropriately zoned, Bidder or Seller agrees to obtain appropriate zoning, and all other governmental approvals required for use of the Site, before Seller's execution of the PPA#.
6. Bidder will promptly notify GPC in writing of any change in the status of Site Control.
7. Upon request, Bidder will provide to GPC a copy of all documents necessary to demonstrate satisfactory legal evidence of Site Control, including the lease, deed, option, or easement, as applicable, comprising the Site Control noted above.
8. Bidder provides below any information currently known regarding land preparation and any environmental, permitting, legal, regulatory, or other matter that might affect Bidder's ability to provide to GPC all necessary property rights.

Bidder does solemnly swear or affirm, under penalty of perjury, that the information Bidder has provided in this Affidavit is based on Bidder's own personal knowledge and is true, complete, and correct and that Bidder is authorized to submit this Affidavit on behalf of the bid.

#BidderLegalName#

By:_____

Name: _____

Title (if applicable): _____

Date: _____

On this ___ day of_____, 20___, before me appeared #LegalName#, the person who signed the Site Control Affidavit in my presence and who swore or affirmed that he/she understood the document and freely declared it to be truthful.

_____

Official Signature of the Notary

State of _____ County of _____

Official Seal of Notary

***My Commission Expires*:**

State of _____ County of _____ **Official Seal of the Notary**

Landowner Confirmation

If Bidder or Seller has Site Control under Sections 2(b) through 2(e) of the Affidavit, the owner/ground lessor of the Site ("**Landowner**") confirms each of the following by signing below:

1. Subject only to the rights of Seller, Landowner is in undisputed and peaceful possession of the Site. Without limiting the foregoing, there is no tenant, lessee, or any other person or entity in possession of or entitled to possession of any portion of the Site other than Seller and Landowner.

2. Landowner has not entered into, and will not enter into, any contract, including a sales agreement, lease, or option that may affect Seller's Site Control during the stated term of the #PPA***OR***#APA***OR***#BTA.

3. The construction, operation, or maintenance of the Facility does not violate or breach any agreement entered into by Landowner, including, without limitation, any lease or ground lease (if applicable), or any other recorded or unrecorded agreement affecting the Site.

4. Landowner grants to GPC a license to enter upon the Site to access, inspect, and monitor all portions of the Facility/Interconnection Facilities, as applicable and to install, operate, and maintain remote monitoring equipment and communication facilities related to safety, power quality, interconnection requirements, and to ensure system reliability. This license will be irrevocable during the term of the #PPA***OR***#APA***OR***#BTA.

#LandownerLegalName#

#Landowner's form of entity and state of registration (if applicable)

By: _____

Name Printed: _____

Title: _____

Date: _____

On this _____ day of _____, 20___ , before me appeared #LandownerLegalName#, the person who signed the Landowner Confirmation in my presence and who swore or affirmed that he/she understood the document and freely declared it to be truthful.

_____

Official Signature of the Notary

State of _____ County of _____

Official Seal of Notary

***My Commission Expires*:**

EXHIBIT E – SUMMARY OF FEES, COSTS, SECURITY, AND DEADLINES

For Bidders' convenience, this exhibit includes a general overview of key deadlines and fees, costs, and security under the RFP Documents. Bidders are responsible for fully reviewing the RFP Documents.

Fee/Security	Due Under	Amount	Required	May Be Required
Bid Fee	RFP	$20,000	X	
Bid Security	RFP	For PPA Bids, 2% multiplied by the sum of the expected revenues during the PPA Term For APA/BTA Bids, 2% of the purchase price for an APA or BTA Bid.	X	
Winner's Fee	RFP	Amount not to exceed $1,000,000 (TBD once final amount of Bid Fees, Due Diligence Fees, and IE cost is known)	X	
Performance Security	APA/BTA/ PPA	See Exhibit E, Attachment 1 (*Performance Security and Termination Liquidated Damages Summary*)		X
Upgrade Security	APA/BTA/ PPA	As determined by GPC		X
Due Diligence Fees	RFP (APA/BTA Bid)	Maximum of $985,000.00: Phase 1: $50,000 Phase 2 (Initial): $400,000 Phase 2 (Second Payment): $400,000 Phase 3: $135,000	X	
Bid Assignments	RFP	$2,500 per occurrence		X
Delay Damages	APA/ BTA/PPA	Equal to the applicable amount shown in Delay Liquidated Damages Summary Table (see Exhibit E, Attachment 2 (*Delay Liquidated Damages Summary*))		X
Termination Liquidated Damages	APA/BTA	Equal to the applicable pre-Closing amount shown in the Performance Security Table (see Exhibit E, Attachment 1 (*Performance Security and Termination Liquidated Damages Summary*))		X

Fee/Security	Due Under	Amount	Required	May Be Required
	PPA	For default termination prior to Commercial Operation, equal to the applicable amount shown in the Performance Security Table (see Exhibit E, Attachment 1 (*Performance Security and Termination Liquidated Damages Summary*))		X

Summary of RFP Deadlines	
Milestone	**Deadline**
NOI	Recommended by no later than April 5, 2024
Bid Fee	By 12:00 PM ET on Bid Due Date
APA/BTA Phase One Due Diligence Fee	By Bid Due Date
Initial APA/BTA Phase Two Due Diligence Fee	No later than 15 Business Days After Competitive Tier Notice
Bid Security Due	No later than 15 Business Days After Competitive Tier Notice
Second APA/BTA Phase Two Due Diligence Fee	By Submission Refresh Deadline
Phase 3 Due Diligence Fee	No later than 5 Business Days after receipt of Short List Notice from GPC
Seller APA/BTA Review and Confirmation	No later than 15 Business Days after receipt from GPC
Winner's Fee	Date Seller returns its executed Awarded Contract
Performance Security	No later than Awarded Contract Execution

EXHIBIT E – ATTACHMENT 1 – PERFORMANCE SECURITY AND TERMINATION LIQUIDATED DAMAGES SUMMARY

APA/BTA PERFORMANCE SECURITY AMOUNTS

The following tables provide APA and BTA Performance Security amounts, which vary based on the Closing date under the Awarded Contract (2026 to 2031). The values shown in the following tables are subject to adjustment in accordance with the applicable APA or BTA. Termination Liquidated Damages will equal the amount stated for Performance Security. Unless stated otherwise, the required Performance Security amounts are in dollars per kilowatt ($/kW).

1. Energy Storage (including ESS with Renewable Resource)

Applicable Periods	Eligible Collateral by Closing Year					
	2026	**2027**	**2028**	**2029**	**2030**	**2031**
Post-Execution Period > Two Years Before Closing	80	101	115	129	145	160
Post-Execution Period ≤ Two Years Before Closing	146	174	197	220	243	268
Post-Closing Period	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price

2. Combined Cycle

Applicable Periods	Eligible Collateral by Closing Year					
	2026	**2027**	**2028**	**2029**	**2030**	**2031**
Post-Execution Period > Two Years Before Closing	121	104	90	78	67	57
Post-Execution Period ≤ Two Years Before Closing	163	140	121	104	89	76
Post-Closing Period	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price

3. Combustion Turbine

Applicable Periods	Eligible Collateral by Closing Year					
	2026	**2027**	**2028**	**2029**	**2030**	**2031**
Post-Execution Period > Two Years Before Closing	81	72	64	57	50	44
Post-Execution Period ≤ Two Years Before Closing	111	99	88	77	68	60
Post-Closing Period	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price	5% of Purchase Price

PPA PERFORMANCE SECURITY AMOUNTS

The following tables provide PPA Performance Security amounts, which vary based on the PPA Term length and year of the Delivery Commencement Date (2026 to 2031). The values shown in the following tables are subject to adjustment in accordance with the applicable PPA. For default termination prior to Commercial Operation, termination Liquidated Damages will equal the amount stated for Performance Security. Buydown liquidated damages owed under the PPA will also equal the amount stated for Performance Security.

1. Energy Storage System

Applicable Dates		***Eligible Collateral ($/kW)***					
2026		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		80	80	80	80	80	80
Post Execution Period < Two Years Before Commencement (for new-build only)		146	146	146	146	146	146
Delivery Commencement Date through PPA Term	Annual Period 1-5	90	254	265	265	265	265
	Annual Period 6-10		158	393	405	405	405
	Annual Period 11-15			210	481	497	497
	Annual Period 16-20				244	564	582
	Annual Period 21-25					287	663
	Annual Period 26-30						335

Applicable Dates		***Eligible Collateral ($/kW)***					
2027		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		101	101	101	101	101	101
Post Execution Period < Two Years Before Commencement (for new-build only)		174	174	174	174	174	174
Delivery Commencement Date through PPA Term	Annual Period 1-5	103	283	295	295	295	295
	Annual Period 6-10		173	413	426	426	426
	Annual Period 11-15			216	498	514	514
	Annual Period 16-20				253	590	609
	Annual Period 21-25					298	692
	Annual Period 26-30						346

Applicable Dates		***Eligible Collateral ($/kW)***					
2028		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		115	115	115	115	115	115
Post Execution Period < Two Years Before Commencement (for new-build only)		197	197	197	197	197	197
Delivery Commencement Date through PPA Term	Annual Period 1-5	115	313	324	324	324	324
	Annual Period 6-10		186	433	447	447	447
	Annual Period 11-15			222	512	528	528
	Annual Period 16-20				261	602	621
	Annual Period 21-25					306	705
	Annual Period 26-30						355

Applicable Dates		***Eligible Collateral ($/kW)***					
2029		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		129	129	129	129	129	129
Post Execution Period < Two Years Before Commencement (for new-build only)		220	220	220	220	220	220
Delivery Commencement Date through PPA Term	Annual Period 1-5	130	340	352	352	352	352
	Annual Period 6-10		195	450	464	464	464
	Annual Period 11-15			230	533	550	550
	Annual Period 16-20				271	630	650
	Annual Period 21-25					317	733
	Annual Period 26-30						366

Applicable Dates		***Eligible Collateral ($/kW)***					
2030		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		145	145	145	145	145	145
Post Execution Period < Two Years Before Commencement (for new-build only)		243	243	243	243	243	243
Delivery Commencement Date through PPA Term	Annual Period 1-5	142	367	379	379	379	379
	Annual Period 6-10		203	466	480	480	480
	Annual Period 11-15			236	546	563	563
	Annual Period 16-20				278	642	662
	Annual Period 21-25					325	748
	Annual Period 26-30						375

Applicable Dates		***Eligible Collateral ($/kW)***					
2031		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		160	160	160	160	160	160
Post Execution Period < Two Years Before Commencement (for new-build only)		268	268	268	268	268	268
Delivery Commencement Date through PPA Term	Annual Period 1-5	158	391	404	404	404	404
	Annual Period 6-10		209	480	495	495	495
	Annual Period 11-15			244	564	582	582
	Annual Period 16-20				287	663	684
	Annual Period 21-25					335	770
	Annual Period 26-30						385

2. **Combined Cycle**

Applicable Dates 2026		***Eligible Collateral ($/kW)***					
		5-Yr	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		121	121	121	121	121	121
Post Execution Period < Two Years Before Commencement (for new-build only)		163	163	163	163	163	163
Delivery Commencement Date through PPA Term	Annual Period 1-5	85	139	141	141	141	141
	Annual Period 6-10		39	61	61	61	61
	Annual Period 11-15			15	30	31	31
	Annual Period 16-20				16	58	62
	Annual Period 21-25					47	153
	Annual Period 26-30						109

Applicable Dates 2027		***Eligible Collateral ($/kW)***					
		5-Yr	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		104	104	104	104	104	104
Post Execution Period < Two Years Before Commencement (for new-build only)		140	140	140	140	140	140
Delivery Commencement Date through PPA Term	Annual Period 1-5	73	119	120	120	120	120
	Annual Period 6-10		33	50	51	51	51
	Annual Period 11-15			13	30	32	32
	Annual Period 16-20				20	73	78
	Annual Period 21-25					57	183
	Annual Period 26-30						125

Applicable Dates		***Eligible Collateral ($/kW)***					
2028		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		90	90	90	90	90	90
Post Execution Period < Two Years Before Commencement (for new-build only)		121	121	121	121	121	121
Delivery Commencement Date through PPA Term	Annual Period 1-5	63	102	103	103	103	103
	Annual Period 6-10		28	42	43	43	43
	Annual Period 11-15			12	33	36	36
	Annual Period 16-20				24	88	94
	Annual Period 21-25					68	210
	Annual Period 26-30						142

Applicable Dates		***Eligible Collateral ($/kW)***					
2029		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		78	78	78	78	78	78
Post Execution Period < Two Years Before Commencement (for new-build only)		104	104	104	104	104	104
Delivery Commencement Date through PPA Term	Annual Period 1-5	54	86	87	87	87	87
	Annual Period 6-10		23	36	37	37	37
	Annual Period 11-15			12	40	42	42
	Annual Period 16-20				31	109	115
	Annual Period 21-25					80	245
	Annual Period 26-30						162

Applicable Dates		***Eligible Collateral ($/kW)***					
2030		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		67	67	67	67	67	67
Post Execution Period < Two Years Before Commencement (for new-build only)		89	89	89	89	89	89
Delivery Commencement Date through PPA Term	Annual Period 1-5	46	73	73	73	73	73
	Annual Period 6-10		18	32	33	33	33
	Annual Period 11-15			13	47	51	51
	Annual Period 16-20				38	129	136
	Annual Period 21-25					94	278
	Annual Period 26-30						181

Applicable Dates		***Eligible Collateral ($/kW)***					
2031		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		57	57	57	57	57	57
Post Execution Period < Two Years Before Commencement (for new-build only)		76	76	76	76	76	76
Delivery Commencement Date through PPA Term	Annual Period 1-5	39	61	61	61	61	61
	Annual Period 6-10		15	30	31	31	31
	Annual Period 11-15			16	58	62	62
	Annual Period 16-20				47	153	162
	Annual Period 21-25					109	317
	Annual Period 26-30						203

3. Combustion Turbine

Applicable Dates		*Eligible Collateral ($/kW)*					
2026		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		81	81	81	81	81	81
Post Execution Period < Two Years Before Commencement (for new-build only)		111	111	111	111	111	111
Delivery Commencement Date through PPA Term	Annual Period 1-5	59	101	102	102	102	102
	Annual Period 6-10		32	50	50	50	50
	Annual Period 11-15			13	18	18	18
	Annual Period 16-20				4	11	12
	Annual Period 21-25					9	33
	Annual Period 26-30						27

Applicable Dates		*Eligible Collateral ($/kW)*					
2027		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		72	72	72	72	72	72
Post Execution Period < Two Years Before Commencement (for new-build only)		99	99	99	99	99	99
Delivery Commencement Date through PPA Term	Annual Period 1-5	52	89	90	90	90	90
	Annual Period 6-10		27	42	42	42	42
	Annual Period 11-15			10	14	15	15
	Annual Period 16-20				4	14	15
	Annual Period 21-25					11	42
	Annual Period 26-30						32

Applicable Dates		***Eligible Collateral ($/kW)***					
2028		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		64	64	64	64	64	64
Post Execution Period < Two Years Before Commencement (for new-build only)		88	88	88	88	88	88
Delivery Commencement Date through PPA Term	Annual Period 1-5	46	78	79	79	79	79
	Annual Period 6-10		23	35	35	35	35
	Annual Period 11-15			8	12	12	12
	Annual Period 16-20				4	17	18
	Annual Period 21-25					14	51
	Annual Period 26-30						38

Applicable Dates		***Eligible Collateral ($/kW)***					
2029		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		57	57	57	57	57	57
Post Execution Period < Two Years Before Commencement (for new-build only)		77	77	77	77	77	77
Delivery Commencement Date through PPA Term	Annual Period 1-5	41	68	68	68	68	68
	Annual Period 6-10		19	28	28	28	28
	Annual Period 11-15			6	11	11	11
	Annual Period 16-20				5	21	23
	Annual Period 21-25					18	62
	Annual Period 26-30						45

Applicable Dates		***Eligible Collateral ($/kW)***					
2030		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		50	50	50	50	50	50
Post Execution Period < Two Years Before Commencement (for new-build only)		68	68	68	68	68	68
Delivery Commencement Date through PPA Term	Annual Period 1-5	36	58	59	59	59	59
	Annual Period 6-10		16	23	23	23	23
	Annual Period 11-15			5	10	11	11
	Annual Period 16-20				7	27	29
	Annual Period 21-25					22	73
	Annual Period 26-30						51

Applicable Dates		***Eligible Collateral ($/kW)***					
2031		**5-Yr**	**10-Yr**	**15-Yr**	**20-Yr**	**25-Yr**	**30-Yr**
Post Execution Period > Two Years Before Commencement (for new-build only)		44	44	44	44	44	44
Post Execution Period < Two Years Before Commencement (for new-build only)		60	60	60	60	60	60
Delivery Commencement Date through PPA Term	Annual Period 1-5	32	50	50	50	50	50
	Annual Period 6-10		13	18	18	18	18
	Annual Period 11-15			4	11	12	12
	Annual Period 16-20				9	33	36
	Annual Period 21-25					27	85
	Annual Period 26-30						59

EXHIBIT E – ATTACHMENT 2 – DELAY LIQUIDATED DAMAGES SUMMARY

The following tables represent Delay Liquidated Damages amounts that may be owed in accordance with the terms of the Awarded Contract. Delay Liquidated Damages shown in the table below represent daily amounts that will be owed for each day of delay beyond the guaranteed date (e.g. mechanical completion, RCOD, etc.) and in the applicable month.

Delay Liquidated Damages Summary (Energy Storage System) ($/kW)						
Month	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**
January	8	13	15	17	19	21
February	2	3	3	4	4	5
March	1	1	1	1	1	1
April	1	1	1	1	1	1
May	1	1	1	1	1	1
June	1	1	2	2	2	2
July	2	2	3	4	4	5
August	2	2	3	4	4	5
September	1	1	1	1	1	1
October	1	1	1	1	1	1
November	1	1	1	1	1	1
December	2	3	3	4	4	5

Delay Liquidated Damages Summary (Combined Cycle) ($/kW)						
Month	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**
January	**22**	**19**	**16**	**14**	**12**	**11**
February	**5**	**4**	**4**	**3**	**3**	**3**
March	**1**	**1**	**1**	**1**	**1**	**1**
April	**1**	**1**	**1**	**1**	**1**	**1**
May	**1**	**1**	**1**	**1**	**1**	**1**
June	**2**	**2**	**2**	**2**	**1**	**1**
July	**5**	**4**	**4**	**3**	**3**	**3**
August	**5**	**4**	**4**	**3**	**3**	**3**
September	**1**	**1**	**1**	**1**	**1**	**1**
October	**1**	**1**	**1**	**1**	**1**	**1**
November	**1**	**1**	**1**	**1**	**1**	**1**
December	**5**	**4**	**4**	**3**	**3**	**3**

Delay Liquidated Damages Summary (Combustion Turbine) ($/kW)						
Month	**2026**	**2027**	**2028**	**2029**	**2030**	**2031**
January	**14**	**13**	**11**	**10**	**9**	**8**
February	**3**	**3**	**3**	**2**	**2**	**2**
March	**1**	**1**	**1**	**1**	**1**	**1**
April	**1**	**1**	**1**	**1**	**1**	**1**
May	**1**	**1**	**1**	**1**	**1**	**1**
June	**2**	**1**	**1**	**1**	**1**	**1**
July	**3**	**3**	**3**	**2**	**2**	**2**
August	**3**	**3**	**3**	**2**	**2**	**2**
September	**1**	**1**	**1**	**1**	**1**	**1**
October	**1**	**1**	**1**	**1**	**1**	**1**
November	**1**	**1**	**1**	**1**	**1**	**1**
December	**3**	**3**	**3**	**2**	**2**	**2**

EXHIBIT F – BID ASSIGNMENT GUIDELINES

PART 1 BID ASSIGNMENT

1.1 Overview.

A. A Bid may only be assigned, including any assignment of a previously assigned Bid to the original Bidder, with the prior written notice to and consent of GPC in accordance with the requirements of this Exhibit F (*Bid Assignment Guidelines*).

B. For each proposed Bid Assignment, Bidder and the proposed Bid assignee named in and executing the Consent Request ("**Bid Assignee**") must review the requirements of this Exhibit F (*Bid Assignment Guidelines*) and agree to the GPC Bid Assignment Consent Form included as Attachment 1 to this Exhibit F (*Bid Assignment Guidelines*) ("**Consent Request**").

C. These guidelines are limited to Bid assignments during the All-Source RFP Bid solicitation phase (each attempted or completed assignment, a "**Bid Assignment**"). For assignments, transfers, or other changes after Awarded Contract execution, the contracting party must comply with requirements in those agreements. For purposes of this Exhibit F (*Bid Assignment Guidelines*) a Change of Control of a Bidder will be deemed an assignment, subject to the provisions of this Exhibit F (*Bid Assignment Guidelines*). For purposes of this Exhibit F (*Bid Assignment Guidelines*), a "**Change of Control**" is any transaction or series of related transactions which, if consummated, would result in Bidder being an Affiliate of another ultimate parent entity immediately after the transaction or series of transactions. For purposes of this definition, the ultimate parent entity is the Person who directly or indirectly controls 50% or more of Bidder's outstanding capital stock or other equity interests having ordinary voting power and who does not itself have an ultimate parent entity.

1.2 Notice and Consent Requirements.

A. Notice Requirements.

(i) Assignment Before Awarded Contract Execution. If Bidder intends to assign its Bid, Bidder must provide GPC with prior written notice through the IE Website in the form of the Consent Request of: (i) Bidder's intent to assign the Bid; (ii) the name of the proposed Bid Assignee; (iii) the information required under Section 1.3 (*Required Information*) of this Exhibit F regarding the Bid Assignee; and (iv) Bidder's request for GPC to consent to the Bid Assignment. The Consent Request and all required information must be submitted to GPC through the IE Website at least 15 Days before the proposed effective date of the Bid Assignment, but in no event less than 15 Days before the Awarded Contract Effective Date.

(ii) Failure to Comply with Notice Requirements. If a Bidder does not comply with the notice and consent requirements of this Exhibit F (*Bid Assignment Guidelines*), GPC may include the Bid in the Release List for that reason alone. A consent granted by GPC for a Bid Assignment does not mean that the Bid will be advanced as a winning Bid or advanced to the Competitive Tier or Short List.

B. Consent by GPC. Bidder must not assign any Bid without GPC's prior written consent. Any attempted Bid assignment without GPC's prior written consent will be void and the original Bidder will remain responsible for all its obligations relating to the Bid. GPC's consent to a proposed Bid Assignment will not create any obligation for GPC to the original Bidder or Bid Assignee beyond GPC's evaluation of the Bid according to the All-Source RFP. GPC reserves the right to reject a Bid Assignment in its sole but reasonable discretion, including if notice is late, incomplete, or GPC determines the Bid Assignment would be contrary to the All-Source RFP or the Commission's orders relating to the All-Source RFP. If GPC rejects a Bidder's proposed Bid Assignment, GPC will provide Bidder with notice through the IE, but the notice will not include a detailed explanation of GPC's rejection of the Bid Assignment. GPC's consent to any Bid assignment request is subject to, among other things, Bid Assignee's acknowledgement of and agreement to the terms of the All-Source RFP, including the

waiver in RFP Section 8.3 (*Initial Review*).

1.3 Required Information. Bidder must provide all information described in this Section 1.3 (*Required Information*).

A. Bid Assignee Information. Bidder must include with its Consent Request all applicable information regarding the proposed Bid Assignee that was required of Bidder under the RFP, including, RFP Part 7 (*Submission Requirements*), RFP Part 6 (*Bidder Attributes*), and RFP Exhibit C (*Additional Bid Information and Questionnaire*), including all required affidavits and certifications (in proposed Bid Assignee's name) and financing plans, and any modifications regarding the information submitted by the original Bidder with its Bid. Bidder must also identify whether the proposed Bid Assignee is a Bidder Affiliate or an unrelated third party.

B. Confirmation of Assignee Information. As required by the Consent Request, by providing notice to GPC of Bidder's intent to assign the Bid through the IE, Bidder and Bid Assignee represent and certify the following:

(i) The proposed Bid Assignment will not adversely impact any obligations of the Bidder under the Bid as assumed by the Bid Assignee as of the Bid Assignment Effective Date;

(ii) The Bid Assignee meets the Bidder requirements of the All-Source RFP;

(iii) The proposed Bid Assignee is willing, ready, and able to perform and discharge all obligations of Bidder for the Bid; and

(iv) The proposed Bid Assignee agrees to the terms of the All-Source RFP, including the waiver in RFP Section 8.9 (*GPC Discretion in Contracting*) and to assume all obligations of Bidder under the Bid.

C. Additional Information Requested by GPC. GPC may request for Bidder or the proposed Bid Assignee to provide additional information as GPC deems necessary. Bidder must promptly provide through the IE Website additional information GPC may request from Bidder or the proposed Bid Assignee to avoid any delays in GPC approving the Bid Assignment or GPC rejecting the Bid Assignment.

1.4 Fees. By no later than the date Bidder submits the Consent Request, Bidder must pay on behalf of Bid Assignee a non-refundable fee of $2,500 to defray the costs of GPC's review, approval, or denial of Bidder's request for consent to the Bid Assignment.

EXHIBIT F – ATTACHMENT 1 – GPC BID ASSIGNMENT CONSENT FORM

Request for Georgia Power Company's Consent to Bid Assignment
(submitted via the IE Website)
Georgia Power Company's All-Source Request for Proposals for 2029–2031 Capacity Needs

Today's Date	
Proposed Effective Date of Proposed Bid Assignment *(must be at least 15 Days after Today's Date and at least 15 Days before notice of PPA award)*	
Bidder Name	
Bid Number	
Facility Name	

The undersigned Bidder ("**Bidder**") is undertaking a proposed Bid Assignment to the proposed assignee named and signing below ("**Bid Assignee**"), in accordance with RFP Section 7.14 (*Bid Assignments*) and RFP Exhibit F (*Bid Assignment Guidelines*). Bidder and Bid Assignee each acknowledge that the consent of Georgia Power Company ("**GPC**"), if given and evidenced by the signature of an authorized GPC representative below, will not become effective until the effective date of the Bid Assignment reflected in GPC's signature block ("**Bid Assignment Effective Date**") and is contingent upon Bidder and Bid Assignee's full compliance with RFP Section 7.14 (*Bid Assignments*) and RFP Exhibit F (*Bid Assignment Guidelines*). GPC's consent to a Bid Assignment will not create any obligation for GPC to the original Bidder or Bid Assignee beyond GPC's evaluation of the Bid according to the All-Source RFP. Bidder and Bid Assignee, as applicable, each make the following representations as required by RFP Section 7.14 (*Bid Assignments*) and RFP Exhibit F (*Bid Assignment Guidelines*) and provides notice to, and requests the consent of, GPC regarding the Bid Assignment:

1. **Bid Assignee Information.**

   Bidder represents that it has included with this *Request for Georgia Power's Consent to Bid Assignment* all applicable information regarding Bid Assignee required to be provided by Bidder to GPC under RPF Exhibit F (*Bid Assignment Guidelines*), Section 1.3.A (*Bid Assignee Information*).

2. **Confirmation of Assignee Information.**

   Bidder and Bid Assignee each represent and confirm the following:

(i) The proposed Bid Assignment will not adversely impact any obligations of the Bidder under the Bid as assumed by the Bid Assignee as of the Bid Assignment Effective Date.

(ii) The Bid Assignee meets the Bidder requirements of the All-Source RFP.

(iii) The proposed Bid Assignee is willing, ready, and able to perform and discharge all obligations of Bidder for the Bid.

(iv) The proposed Bid Assignee acknowledges and agrees to the terms of the All-Source RFP, including the waiver in Section 8.3 (*Initial Review*) of the All-Source RFP and to assume all obligations of Bidder under the Bid.

3. Fees.

Bidder confirms that it has paid the two thousand five-hundred-dollar ($2,500) Bid assignment fee as required by RFP Exhibit F (*Bid Assignment Guidelines*), Section 1.4 (*Fees*).

4. Miscellaneous.
This *Request for Georgia Power's Consent to Bid Assignment* may be executed in multiple counterparts, each of which is an original and all of which constitute a single instrument. The signatures of each party are not required to be contemporaneous. The parties may exchange counterparts of this document 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. Each party represents and warrants that the individual signing this *Request for Georgia Power's Consent to Bid Assignment* on its behalf is authorized to sign this instrument. No further proof of authorization is required.

In consideration of the mutual promises described here, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which each party acknowledges, and intending to be legally bound, the parties evidence this Consent Request by execution below.

Bidder Signature:

The undersigned Bidder provides notice to GPC and requests GPC's consent as indicated above.

#BidderLegalName#	
Signature of Authorized Representative	
Name (*Please Print)*	
Title	

Bid Assignee Signature:

The undersigned proposed Bid Assignee: (i) acknowledges Bidder's Request for GPC's consent to this Bid Assignment; (ii) represents that it has a complete copy of, and has reviewed, the Bid; (iii) makes all representations, warranties, and covenants required for this Bid Assignment per all applicable terms and conditions; (iv) warrants that all representations and warranties made by Bidder in the Bid are true and correct as to the Bid Assignee as of Today's Date noted above and covenants that they will also be true and correct as of the Bid Assignment Effective Date of the Bid Assignment; (v) acknowledges and agrees to the terms of the All-Source RFP, including the waiver

in RFP Section 8.3 (*Initial Review*); and (vi) agrees to assume all of Bidder's obligations (as applicable) under the Bid, including those associated with the referenced Bid Number upon the Bid Assignment Effective Date of the Bid Assignment.

#BidAssigneeLegalName#	
Signature of Authorized Representative	
Name (*Please Print)*	
Title	
Email	
Mailing Address	

GPC Signature:

By signing below, GPC, consents to the proposed Bid Assignment of the Bid to the Bid Assignee as of the Bid Assignment Effective Date indicated below.

Georgia Power Company	
Signature of Authorized Representative	
Name (*Please Print)*	
Title	
Bid Assignment Effective Date	

EXHIBIT G – DIVERSITY, EQUITY, AND INCLUSION CERTIFICATE

Georgia Power Company
241 Ralph McGill Blvd NE
Bin No. 10196
Atlanta, Georgia 30308

RE: All-Source RFP – Diversity, Equity, and Inclusion
Facility Address: #Address#
Facility Type: #FacilityType#
Contact person for the Site/Facility: #ContactPersonName#

Ladies and Gentlemen:

On or before #Month #Day, #Year and in accordance with the provisions of All-Source RFP, #BidderLegalName# a ***OR*** an #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Bidder**"), is submitting one or more Bids for consideration to fulfill a portion of the All-Source RFP, which may result in Bidder being awarded: (i) a PPA; (ii) an APA; or (iii) a BTA. Capitalized terms used but not defined in this Certificate have the meanings set forth in the All-Source RFP.

GPC is committed to supporting diversity, equity, and inclusion within GPC as well as externally. To further this initiative, GPC is expanding its diversity, equity, and inclusion expectations to its counterparties, consultants, and supply chain vendors. By nurturing relationships with diverse suppliers and contractors, both big and small, including female-, minority-, and veteran-owned businesses, GPC broadens its access to products and services, while demonstrating GPC's commitment to economic inclusion across the state of Georgia. Accordingly, GPC will consider a Bidder's diversity, equity, and inclusion commitments and demonstrated progress as a non-price factor in GPC's All-Source RFP. GPC requires that each Bidder self-certify and check all applicable qualifications in Section 1 (*Self-Certification*) and affirm the covenants in Section 2 (*Bidder Covenants*).

Section 1: Self-Certification

1. Is Bidder a Small Business (other than a Large Business) – A business concern that meets the small business size code standards established by the SBA in 13 C.F.R. Part 121?
   - □ Yes
   - □ No
2. Bidder is one of the following (please check all that apply):
   - □ Small-Disadvantaged Business
   - □ Woman-Owned Business;
   - □ HUBZone Business
   - □ Veteran-Owned Business
   - □ Minority Owned Business
   - □ LGBT-Owned Business
   - □ Disability-Owned Business

Section 2: Bidder Covenants

Bidder covenants that Bidder will:

1. Actively seek, interview, and consider qualified, diverse employees for employment and promotion, and actively seek, screen, and consider qualified, diverse suppliers, contractors, and subcontractors that can provide competitively priced, high-quality goods and services;
2. Actively seek to provide employment opportunities in the local community (i.e., near the Facility site);
3. Demonstrate support and advocacy for diversity, inclusion, and equity in its business efforts (e.g., hiring and marketing); and
4. Ensure that the inclusion of diverse team members, contractors, and suppliers is a deliberate focus for Bidder's company as well as the proposed Facility development and operations.

Bidder certifies that the information Bidder has provided in this Certificate is based on Bidder's own personal knowledge and is true, complete, and correct. Bidder further certifies that a Bidder representative personally examined and is familiar with all the preceding information, including any attachments and appendices, and further certifies that information to be true, correct, and complete.

#BidderLegalName#

By: _____

Name Printed: _____

Title: _____

Date: _____

EXHIBIT H – OVERVIEW OF EVALUATION METHODOLOGY

The following is a general overview of GPC's methodology for Submission evaluation. PPA Bids, APA Bids, BTA Bids, and any Company-Owned Proposal(s) will receive comparable evaluation that ensures a net total cost is calculated while accounting for the net present value of generation and transmission aspects over the life of the asset. As part of the evaluation, GPC may also consider the non-price factors described in Exhibit I (*Non-Price Considerations*).

All graphics and tables included in this Exhibit H are for illustrative purposes only.

I. Net Total Cost Evaluation. Each Submission advanced to the Competitive Tier will be evaluated and ranked using a net total cost analysis approach. The net total cost is the net present value of the generation and transmission aspects of the Submission in dollars per kilowatt ($/kW) of capacity contribution. The generation cost is comprised of both the fixed cost associated with the Submission and the variable cost associated with the operational parameters of the Submission, which will be used in production cost modeling simulations. The capacity contribution of each Submission will be based on the effective load carrying capability ("ELCC"), which will be determined by the process approved by the Commission in the 2022 IRP filed in Docket No. 44160. ELCC may vary based on technology type and operational characteristics within the same technology. For example, Energy Storage Systems that differ in discharge duration may have different ELCC.

A. Generation Costs – Determining Fixed Costs.

Fixed generation cost will include the following (as applicable to the Submission):

1. The Bidder-specified capacity cost payment (typically quoted in dollars per kilowatt ($/kW) for each year) for PPA Bids;
2. The costs associated with PPA treatment as either an Operating Lease or a Finance Lease, as applicable, if it is determined that the PPA constitutes a lease in accordance with RFP Section 7.5.4 (*Finance Lease Certification*);
3. GPC's revenue requirements for the purchase price for APA/BTA Bids and in-service costs for Company-Owned Proposals. These revenue requirements account for depreciation, cost of capital, and taxes; and
4. The fuel pipeline costs, which include the estimated costs for adequate firm natural gas transportation and natural gas storage, as applicable. This requirement is not applicable to an ESS Bid.

The evaluation will consider differences in the seasonal capability of each Submission.

B. Equity Cost of PPA – Determining the Balance Sheet Consequence for Operating Lease or Finance Lease Treatment.

If a Bid is determined to be a lease, there is an equity cost to GPC when the PPA is placed on GPC's balance sheet caused by the rating agency treatment of a lease in accordance with FASB ASC Topic 842.

For a Finance Lease, GPC must capitalize the PPA as an asset on its balance sheet and must offset it by a debt obligation on the liability side of the balance sheet. The addition of the debt obligation on the balance sheet requires GPC to recapitalize to maintain the appropriate debt and equity ratio. As a result, there are direct equity costs incurred by GPC when a PPA is capitalized and reflected on the balance sheet as a Finance Lease. The equity cost of a Bid

determined to result in a Finance Lease, if selected, will be evaluated by determining the net cost (lease cost less depreciation and tax implication) of capitalizing the PPA.

For an Operating Lease, the PPA is also added to the balance sheet but without directly affecting the debt and equity ratio on GPC's books. However, rating agencies impute debt onto GPC's balance sheet in their evaluation of the credit rating for GPC. Therefore, GPC must still recapitalize to maintain the target debt and equity ratio needed to ensure its credit rating is not impacted by the PPA. There is a direct equity cost premium associated with this treatment.

The additional annual revenue requirement cost to GPC is calculated for the Operating Lease or Finance Lease. The result is the equity cost applied to the Bid.

C. Generation Costs – Determining the Production Cost Savings.

The variable generation cost includes:

1. Fuel cost for any CT or CC Submission
2. Charging costs for any ESS Submission
3. Variable O&M
4. Facility dispatch characteristics
5. RECs and integration costs for ESS with Renewable Resource Submissions.

Production cost computer simulations are required to estimate the operational savings associated with operating each proposed Facility with the system dispatch. Each Submission's contribution to reducing the aggregate annual system generation fleet fuel and variable cost can be calculated by comparing a cost simulation that includes the Submission against a reference simulation (without the Submission). The variable cost components of each Submission are modeled within the production cost simulation. In addition to fuel and O&M Costs, Facility operating characteristics, including efficiency (e.g., heat rate, Round-Trip Efficiency), scheduled maintenance requirements, any applicable Ancillary Services, and projected availability will contribute to the total production cost. For ESS Submissions, additional operating characteristics such as charge and discharge duration, cycle limits, and charging source (grid or paired resource) will contribute to calculation of the total production cost.

Evaluation of ESS with Renewable Resource Submissions requires the renewable generation profile to be submitted for inclusion in the production cost simulation. There will be a $/MWh REC component attributed to any Renewable Energy to account for the forecasted value of RECs. Depending on the renewable generation technology and configuration of a paired ESS, a $/MWh integration cost will be applied to any Renewable Energy to account for costs arising from actions taken by system operators to respond to the additional volatility on the system from the intermittent nature of Renewable Resources. RECs and integration costs will be evaluated in accordance with the RCB Framework, as approved by the Commission in Docket 44160.

In general, GPC conducts the production cost simulation to calculate the projected annual production cost savings on a per kilowatt capacity basis for the Submission.

An illustrative example of the net generation cost calculation (total fixed generation costs net production cost savings) is provided below.

Evaluation Task:
Determine the Production Cost Savings

Year	Total Fixed Generation Cost ($/kW-yr)	Production Cost Simulation Reference Case ($000)	Production Cost Simulation Including Bid ($000)	Calculated Production Cost Savings ($/kW-yr)	Net Generation Cost ($/kW-yr)
2025	85.00	2,919,722	2,901,482	30.40	54.60
2026	86.58	3,023,373	3,000,537	38.06	48.52
2027	88.19	3,133,726	3,106,870	44.76	43.43
2028	89.84	3,251,240	3,222,890	47.25	42.59
2029	91.51	3,369,911	3,342,377	45.89	45.62
2030	93.22	3,489,543	3,466,239	38.84	54.38
2031	94.97	3,616,911	3,590,031	44.80	50.17
2032	96.75	3,752,545	3,726,145	44.00	52.75
2033	98.56	3,889,513	3,861,907	46.01	52.55
2034	100.41	4,027,591	4,000,951	44.40	56.01

D. Net Generation Cost: Calculating the Net Generation Cost of a Proposal.

The production cost simulation is conducted to achieve the annual production cost savings. The calculation of the net generation cost for each proposal is a three-step process: (i) the Submission's fixed costs are calculated annually on a dollar per kilowatt basis; (ii) on an annual basis, the per kilowatt production cost savings are subtracted from the fixed costs resulting in the annual net generation per kilowatt costs; and (iii) the final net generation cost is the accumulated net present value of the annual net generation costs.

An illustrative example of the net present value of the net generation cost calculation is provided in the following table.

Evaluation Task:
Determine the Present Value of the Net Generation Costs

Year	Net Generation Cost ($/kW-yr)	PV Factor	PV of Net Generation Cost ($/kW)	Accumulated PV of Net Generation Cost ($/kW)
2025	54.60	0.92	50.28	50.28
2026	48.52	0.85	41.14	91.42
2027	43.43	0.78	33.91	125.32
2028	42.59	0.72	30.61	155.94
2029	45.62	0.66	30.20	186.14
2030	54.38	0.61	33.15	219.29
2031	50.17	0.56	28.16	247.45
2032	52.75	0.52	27.26	274.71
2033	52.55	0.48	25.01	299.72
2034	56.01	0.44	24.54	324.26

E. Transmission Costs: Evaluation of Transmission Impacts of Bids.

After determination of the Competitive Tier, an assessment of the transmission impact of each Submission will be an integral part of the net total cost analysis. Each Submission on the Competitive Tier is evaluated from a transmission network perspective to assess:

1. The additional network transmission investment required to deliver Facility output to native load on a firm basis;
2. The additional network transmission investment required to provide grid charging service from the network, if applicable; and
3. The increase (or decrease) in transmission system energy losses due to the operation of the proposed Facility.

Each Submission is analyzed using transmission system computer simulation models to determine if additional transmission network improvements are required to accommodate the proposed Facility. For evaluation purposes, the Submission is assessed the yearly amortized cost of the transmission improvements.

The transmission simulation models include future projections of transmission facilities and planned GPC-owned generation to maintain grid reliability in areas of major load (net of generation).

In addition, each Submission is analyzed to determine whether operation of the proposed Facility increases or decreases the transmission system energy losses. Each Submission is assessed an annual cost (or credit) associated with its projected impact on the transmission system energy losses.

As part of the evaluation of transmission impacts of each Submission, GPC will further assess any project scheduling risk posed by the transmission system evaluation, including the ability of the proposed project to meet the RCOD or RCD, as applicable.

Illustrative examples of how the net transmission cost and net total cost are determined are provided below.

Evaluation Task:
Determine the Transmission Costs

Year	Transmission Grid Cost Rev Req ($/kW-yr)	PV Factor	PV of Transmission Grid Cost Rev Req ($/kW-yr)	Transmission Losses ($/kW-yr)	PV of Transmission Losses ($/kW-yr)	PV of Net Transmission Cost, $16.92/kW ($/kW)
2025	5.08	0.92	4.68	-1.16	-1.07	3.61
2026	4.75	0.85	4.03	-1.18	-1.00	3.03
2027	4.47	0.78	3.49	-1.21	-0.94	2.54
2028	4.19	0.72	3.01	-1.23	-0.88	2.13
2029	3.91	0.66	2.59	-1.26	-0.83	1.75
2030	3.63	0.61	2.21	-1.19	-0.73	1.49
2031	3.34	0.56	1.88	-1.21	-0.68	1.20
2032	3.07	0.52	1.59	-1.18	-0.61	0.98
2033	2.77	0.48	1.32	-1.21	-0.58	0.74
2034	0.00	0.44	0.00	-1.23	-0.54	-0.54

Evaluation Task:
Determine the Net Total Cost

Accumulated PV Net Generation Cost	$324.26/kW
Accumulated PV Net Transmission Cost	$16.92/kW
Net Total Cost	$341.18/kW

II. Due Diligence Portfolio Analysis

The Competitive Tier will be evaluated and ranked using a consistent methodology that identifies the best Submissions based on the net present value of net total cost per kW. To satisfy the

capacity need targeted in this All-Source RFP, more than one Submission may be selected. A portfolio analysis will be required to determine the best portfolio (combination of two or more) of Submissions that satisfy the identified capacity need. For Submissions offering multiple units in a single Submission, each unit or group of units may be selected separately by GPC.

In the due diligence portfolio analysis, the best Submissions will be packaged together into several combinations or "portfolios." Each of the resulting portfolios will be evaluated using a net total cost approach that is consistent with the methodology used to evaluate each individual Submission. In the portfolio phase, a production cost simulation and a transmission cost analysis are required to evaluate the cost impacts resulting from any interaction that may result from packaging several Submissions into a portfolio.

EXHIBIT I – NON-PRICE CONSIDERATIONS

Although most of the evaluation will focus on price and reliability considerations, GPC will consider non-price attributes when selecting the winning portfolio of Submissions. GPC reserves the right, in consultation with Staff and the IE, to convert any of the items included in this Exhibit I into appropriate price and cost factors applied consistently within the overall evaluation framework and to all Submissions on a non-discriminatory basis.

The following attributes, as applicable, are expected to form the primary basis for the non-price evaluations that will be considered for the most competitive Submissions. GPC has attempted to identify as completely as possible non-price considerations that could impact Submission evaluation. GPC may also determine that other aspects of a Submission negatively impact the overall Submission value. In such case, to the extent practicable, the IE may inform Participant of the concern and provide to Participant an opportunity to mitigate or cure the concern.

Participant Qualifications and Portfolio Considerations

- Financial strength and credit rating of Bidder and Seller Guarantor, if applicable
- Financial structure of project (e.g., project financed, non-recourse)
- Technical competence (development and operational experience)
- Portfolio and technology diversity
- Remaining useful life of existing Facility, if applicable

Schedule for Development of New Resources

- Reasonableness
- Contingencies
- Current developmental status of the project
- Status of necessary activities (e.g., equipment orders and leases or options for land)

Resource Attributes (as applicable)

- Lead time for dispatch schedules
- Ability to change schedules daily/hourly
- Ability to quick start or curtail
- Minimum schedule and downtime
- Minimum operating level
- Dispatchability characteristics
- Blackstart capability
- Location of Facility

Fuel and Energy

- Tolling agreement and fuel contract assignability
- Type of fuel
- Risk of fuel supply interruption
- Fuel price risk
- Fuel oil storage and replenishment capabilities
- Deficiency in fuel oil operation permit hours
- Energy storage replenishment capabilities

Environmental Impact

- Particulate and air emissions
- Environmental compliance strategy
- Toxic release inventory emissions in the region

- Future permitting restrictions in the region for other industrial development
- Water requirements
- Endangered species mitigation
- Land use and wildlife impacts

Transmission

- Impact on transmission interface capability
- Transmission delivery risk

Other

- Certified Diverse Supplier Certificate
- Awards received
- Economic development potential of Facility
- Start date of the project

EXHIBIT J – VIE CERTIFICATION

BID – _____.

The undersigned individual, being the Chief Financial Officer[1] of #BidderLegalName# a ***OR*** an #OrgState# #limited liability company# ***OR*** #OtherOrgStructure# ("**Bidder**") and **[having responsibilities/based on information I have received from individuals responsible]** for financial accounting matters associated with the power purchase agreement ("**PPA**") that Bidder would enter with GPC if Bidder is a Winning Bidder under the All-Source RFP hereby certifies that the transaction resulting from this Bid WILL (_____)/WILL NOT (_____) require Bidder, at any time over the proposed PPA Term and based on U.S. Generally Accepted Accounting Principles in effect as of the date of this certification, to deconsolidate on its books and records any assets, liabilities, cash flow, profits, or losses of Bidder as a result of GPC being determined to be the Primary Beneficiary. My determination of the most likely accounting treatment of this transaction results from my personal consideration, after necessary discussions with relevant officers, of Accounting Standards Codification ("**ASC**") Topic 810, Consolidation, and the following factual matters:

1.Bidder's accounting policies, procedures, and internal controls are sufficient to provide GPC with an appropriate basis for confirming the information contained herein.

_____Yes

_____No (please explain)

Explain:_____
_____

2. Bidder qualifies for one of the scope exceptions listed in paragraphs 810-10-15-12 and 810-10-15-17 of ASC Topic 810.

_____Yes (please explain)

_____No (please explain)

Explain:_____
_____

3. Bidder is financed with equity equal to or greater than ten percent (10%) of Bidder's total assets per paragraphs 810-10-25-45 to 47 of ASC Topic 810.

_____Yes

_____No

4. The PPA revenues correlate with fluctuations in Bidder's operating cash flows (operating expenses).

_____Yes (please explain)

_____No

Explain:_____
_____

[1] If Bidder's business structure does not designate an officer with this or a similar title, Bidder must provide written documentation affirming the authority of the individual who attests to this certification.

5. The PPA reduces variability in the fair value of Bidder's assets, for example, by absorbing fuel or electricity price risk.

_____Yes (please explain)

_____No

Explain:_____
_____

6. The PPA Term is for greater than 50% of the remaining economic life of the Facility.

_____Yes

_____No

7. The PPA is for substantially all of the proposed Facility's productive output.

_____Yes

_____No

8. GPC and/or its Affiliates participated significantly in the design or redesign of the Facility.

_____Yes

_____No

9. The percentage that the Facility's fair value represents, of the fair value of the Bidder's total assets, is approximately:

_____%

10.The Facility is essentially the only source of payment for specified liabilities or specified other interest (there is specific debt associated with the generating Facility).

_____Yes

_____No

The signatory below gives this certification in the undersigned's capacity as an officer of Bidder and not in a personal capacity.

Capitalized terms used without definition have the same meaning shown in the RFP.

Bidder understands that GPC: (i) will perform an independent assessment of the PPA under ASC 810; (ii) will rely upon this certification in the evaluation of the Bid; (iii) may require further documentation supporting this certification; and (iv) reserves the right to disqualify this Bid if GPC determines that the PPA transaction will result in consolidation by GPC of a VIE.

Certification
The above information (and any attachment) has been completed in full and agrees with Bidder's records as of the date of this certification.

*By:*_____
Name: _____
Title (if applicable): _____
Date: _____

EXHIBIT K – FINANCE LEASE CERTIFICATION CHECKLIST

(While completion of this certification is a requirement, the assertions in this certification are relevant only to the extent that a lease is identified in accordance with ASC Topic 842, Leases.)

Please complete the Finance Lease certification for each lease component identified.

BID--_____

The undersigned individual, being the Chief Financial Officer[1] of #BidderLegalName# a OR an #OrgState# #limited liability company# OR #OtherOrgStructure# ("**Bidder**") and **[having responsibilities/based on information I have received from individuals responsible]** for financial accounting matters associated with the power purchase agreement ("**PPA**") resulting from GPC's acceptance of this Bid, based on my personal consideration after necessary discussions with relevant officers of factual matters hereby certifies the following based on my understanding of Accounting Standard Codification ("**ASC**") Topic 842, Leases.

1. The Bid DOES (_____)/DOES NOT (_____) transfer ownership of the asset at or by the end of the proposed PPA Term as described in paragraph 842-10-25-2(a) of ASC Topic 842.

2. The Bid DOES (_____)/DOES NOT (_____) contain a purchase option for the asset that is reasonably certain to be exercised as described in paragraph 842-10-25-2(b) of ASC Topic 842.

3. The proposed PPA Term IS (_____)/IS NOT (_____) equal to the major part or 75% or more of the remaining economic life of the asset offered as described in paragraph 842-10-25-2(c) of ASC Topic 842.

4. The present value of the lease payments at the beginning of the proposed PPA Term IS (_____)/IS NOT (_____) greater than or equal to substantially all or ninety (90%) of the fair value of the asset offered as described in paragraph 842-10-25-2(d) of ASC Topic 842.

5. The asset IS (_____)/IS NOT (_____) of such a specialized nature that it is expected to have no alternative use to the Bidder at the end of the proposed PPA Term as described in paragraph 842-10-25-2(e) of ASC Topic 842.

If I have responded in the affirmative to one or more of the above factual statements, I have attached a good faith statement of the dollar amounts that GPC would be required to capitalize and the residual value of the asset at the end of the PPA Term.

The signatory below gives this certification in the undersigned's capacity as an officer of Bidder and not in a personal capacity.

Capitalized terms used without definition have the same meaning shown in the RFP.

Bidder understands that GPC: (i) will perform an independent assessment of the PPA under ASC 842; (ii) will rely upon this certification in the evaluation of the Bid; (iii) may require Bidder to Submit documentation supporting this certification; and (iv) reserves the right to reevaluate this Bid if GPC determines that the PPA transaction will most likely be a Finance Lease.

Certification on Next Page

[1] If Bidder's business structure does not designate an officer with this or a similar title, Bidder must provide written documentation affirming the authority of the individual who attests to this certification.

Certification

The above information (and any attachment) has been completed in full and agrees with Bidder's records as of the date of this certification.

*By:*_____

Name: _____

Title (if applicable): _____

Date: _____

EXHIBIT L – ADDITIONAL GUIDANCE FOR ESS SUBMISSIONS

This Exhibit L provides additional guidance, including operational requirements, for Participants developing ESS Submissions. This Exhibit L also summarizes PPA pricing structure and performance metrics, but PPA Bidders must also reference the pro forma Standalone ESS PPA or the pro forma ESS with Renewable Resource PPA to gain full understanding of ESS-related requirements. ESS BTA Bidders must also reference the pro forma BTA and conform to GPC's Minimum Technical Requirements.

PART 1 DEFINITIONS

For purposes of this Exhibit L, each of the following terms has the corresponding assigned meaning:

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

Round-Trip Efficiency (RTE): The amount of energy received from the ESS at the POI divided by the original amount of energy that was used to charge the ESS at the POI.

Storage Device Design Capacity: The guaranteed amount of ESS storage capacity allocated to GPC under the PPA, as will be designated in the PPA.

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

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

Storage Performance Reduction (SPR): As defined in the pro forma Standalone ESS PPA or pro forma ESS with Renewable Resource PPA.

PART 2 OPERATIONAL REQUIREMENTS FOR ESS FACILITIES

2.1 In addition to the requirements of RFP Section 2.4 (*ESS Submissions*), an ESS Facility must meet the following requirements:

A. Facility control system must be capable of communicating bidirectionally with GPC's AGC system, including:

(i) Charging and discharging in response to GPC's 6-second AGC signals;

(ii) Operating continuously on AGC for both charging and discharging of the ESS;

(iii) Operating manually in response to scheduling communications if AGC signals are interrupted for any reason; and

(iv) Sending and receiving all AGC-related signal data (see RFP Section 3.5.1 (*AGC*) for details) and responding as required by GPC.

B. The Facility must include control system updates, logic upgrades, connections, and other alterations, as requested by GPC, and must be capable of monitoring and controlling the energy flows from and to each Facility component.

C. The ESS must: (i) be capable of Grid charging from the Southern Company Transmission System; and (ii) meet all specifications listed for inverter-based generator interconnections on OASIS (http://www.oasis.oati.com/SOCO/).

PART 3 ADDITIONAL OPERATIONAL REQUIREMENTS FOR AN ESS WITH RENEWABLE RESOURCE FACILITY

3.1 In addition to meeting the requirements of Part 2 (*Operational Requirements for ESS Facilities*) of this Exhibit L, an ESS with Renewable Resource Facility must be capable of:

A. Charging and discharging using Renewable Energy in response to GPC's 6-second AGC signals; and

B. Charging from the Southern Company Transmission System or the Renewable Resource in response to GPC's AGC signals.

3.2 The Renewable Resource must be: (i) sized to fully-charge the ESS; and (ii) capable of operating continuously in response to GPC's AGC signals for GPC to direct the Renewable Energy. For a Facility that includes a Renewable Resource, GPC prefers that the Renewable Resource be AC coupled to the ESS. GPC reserves the right to modify the performance metrics for the proposed Facility if Bidder proposes a Facility that is DC coupled. GPC will have exclusive rights to the energy output of the Renewable Resource and the ESS at no additional cost to GPC (i.e., Seller will not receive any variable payment for the Renewable Energy). Seller's Annual Capacity Payment represents all compensation owed to Seller for all Facility capacity and energy delivered during the Annual Period.

PART 4 CAPACITY AND DISPATCH REQUIREMENTS FOR PPA BIDS

4.1 Over the PPA Term, the ESS must:

A. Discharge at the guaranteed Storage Device Design Capacity (SDDC) at the guaranteed Storage Device Discharge Duration, which must be at least four hours;

B. Be on AGC and available for charging or dispatch on a 24-hour daily basis except during pre-approved scheduled maintenance outages; and

C. Be capable of at least 365 Cycles per Annual Period, and Cycles will be limited to a maximum of two Cycles in any Day.

4.2 GPC will evaluate the guaranteed Storage Device Design Capacity (SDDC) based on the ESS's charging ability and ability to continuously discharge to the POI for the Storage Device Discharge Duration each Day over the PPA Term. GPC is not responsible for any degradation of the ESS over the PPA Term, and either Party may request a performance test to demonstrate the performance capability of the ESS.

4.3 The maximum delivered energy from the ESS or the Renewable Resource, separately or combined, to the POI, at one time, may not exceed the Interconnection Limit.

4.4 There will be a tolling arrangement for grid charging. GPC will provide all grid energy, excluding Station Service, required for grid charging a Standalone ESS or an ESS with Renewable Resource in accordance with the applicable pro forma PPA. There will be no cost to GPC for tolled grid energy. Seller must separately procure any energy needed for Station Service, including, if required, a metered retail service connection to GPC or another provider.

PART 5 STORAGE PERFORMANCE REQUIREMENTS

5.1 GPC will evaluate ESS performance monthly based on two components:

A. Energy Storage Performance Metric. This metric will compare the actual daily availability of the ESS to store energy, including both grid energy and Renewable Energy, in an amount equivalent to the guaranteed Storage Device Operating Energy. See the pro forma PPAs for details.

B. Charge/Discharge Rate Performance Metric. This metric will compare the daily composite charge or discharge rate of the ESS to the guaranteed ESS charge rate or the guaranteed Storage

Device Design Capacity. See the pro forma PPAs for additional details.

5.2 These two metrics will be averaged to produce the "**Monthly Storage Performance Metric**." See the pro forma PPAs for additional details.

PART 6 ROUNDTRIP EFFICIENCY PERFORMANCE REQUIREMENT

6.1 The Round-Trip Efficiency Performance Metric will be determined by comparing actual Monthly RTE to the guaranteed RTE.

6.2 Each PPA Bidder must include in its Bid a guaranteed RTE of the ESS. Actual installed RTE will be confirmed by third party-certified testing before Commercial Operation to confirm actual RTE is greater than the guaranteed RTE (e.g., if the guaranteed RTE is 86%, the actual RTE must be 86% or greater).

6.3 GPC will track actual achieved RTE monthly for all stored energy. This RTE will be calculated by dividing stored energy for the month delivered to the POI by the energy input into the ESS.

6.4 If, for a month, the measured RTE for stored energy that reaches the POI is below the guaranteed RTE by more than one percentage point (e.g., the measured RTE of 84% for a Facility with an 86% guaranteed RTE would have a measured RTE that is two percentage points below the guaranteed RTE), GPC will calculate a "**Monthly RTE Adjustment**" from: (i) the stored energy; (ii) the percent that actual Monthly RTE is below the guaranteed RTE; (iii) and GPC's Associated Interchange Energy Rate (AIER).

6.5 The Monthly RTE Adjustment will be subtracted from the Monthly Capacity Payment after the Storage Performance Reduction is applied.

6.6 The Monthly RTE Adjustment will be calculated using GPC system incremental cost (i.e., AIER) for the stored energy lost due to the measured RTE being below the guaranteed RTE by more than one percentage point.

PART 7 PPA PAYMENTS FOR ESS CAPACITY AND ENERGY

7.1 For each PPA Annual Period, GPC will pay to Seller a fixed **"Annual Capacity Price,**" which will be stated in the PPA. The Annual Capacity Price will be: (i) all compensation owed by GPC to Seller under the PPA; and (ii) subject to reduction for Seller failure to achieve performance guarantees, as will be described in the applicable pro forma PPA. The Annual Capacity Price will be prorated by application of Monthly Value Factors and paid monthly ("**Monthly Capacity Payment**"), as may be reduced in accordance with the PPA.

7.2 As applicable, GPC will reduce the payment to Seller by subtracting from the Monthly Capacity Payment: (i) the Storage Performance Reduction; and (ii) the RTE Performance Adjustment.

PART 8 ANNUAL RENEWABLE ENERGY PERFORMANCE REQUIREMENT (ESS WITH RENEWABLE RESOURCE ONLY)

8.1 After the conclusion of each Annual Period, GPC will compare the Renewable Energy that was available for the Annual Period against the Seller's binding annual Renewable Energy forecast ("**Annual Renewable Energy Forecast**"**)** to calculate an annual Renewable Energy performance adjustment. (see the pro forma ESS with Renewable Energy PPA for additional information)

8.2 If the Renewable Energy available for an Annual Period is less than 90% of the Annual Renewable Energy Forecast, then a "**Renewable Energy Performance True-up**" will be calculated by GPC as detailed in the PPA to recover from Seller up to 50% of the sum of the Monthly Capacity Payments that GPC paid during the Annual Period.

EXHIBIT M – ENVIRONMENTAL SITE ASSESSMENT REQUIREMENTS

PART 1 ALL BIDS.

From an environmental perspective, and in GPC's view, the best property for siting generation is property that has been comprehensively evaluated and determined to either have no past or present environmental concerns, or if concerns are identified, they can be avoided through generation technology or Site configuration. Where environmental impacts are possible, it is necessary to fully address impacts through avoidance, minimization, regulatory permitting, and compliance, and, possibly, mitigation.

Each Bid will consider and address, at a minimum, the items outlined below. If Bidder does not believe an item is applicable to its Project, Bidder must provide a statement as to why.

1. Waters of the U.S.
2. State waters (where applicable)
3. 100-Year Floodplains
4. NPDES Construction Stormwater Permitting
5. Federal and State Protected Species and Species of Special Concern
6. Cultural Resources (Archaeology and Historical Architecture)
7. Spill Prevention, Control, and Countermeasures (SPCC) Compliance
8. Any contamination or potentially contaminated soil or groundwater (A Phase I Environmental Site Assessment may be required)
9. Air Quality requirements (including construction and development related considerations, e.g., permitting of timber/other open burning, as well as air pre-construction and operating permit requirements, etc.)
10. Local government permitting, ordinances, and restrictions

With each Bid submittal, Bidder must provide a notarized Environmental Compliance Affidavit found in Exhibit N (*Environmental Compliance Affidavit*).

PART 2 ENVIRONMENTAL ASSURANCES DUE AFTER BID ADVANCES TO COMPETITIVE TIER

GPC requires assurances from each Bidder that due diligence concerning the protection of project-related environmental factors has been conducted and will continue to be observed throughout the PPA Term, until Closing of an APA, or until completion of Seller's obligations under a BTA, as applicable. Efforts must be made by Bidder to avoid environmental impacts, but where impacts are unavoidable, efforts must be made by Bidder to minimize and mitigate environmental impacts accordingly. Therefore, Bidder is required at a minimum to address the above factors with its Bid to allow GPC to independently assess what potential environmental impacts may result from construction and operation of the Facility. Bidder must submit Environmental Assurances after its Bid advances to the Competitive Tier. Failure to address the items below will result in an incomplete Bid and possibility of rejection.

If Bid advances to the Competitive Tier, Bidder must submit to GPC the Environmental Assurances outlined below by the due date noted in the Solicitation Schedule.

2.1 Bidder must provide a site plan that includes all environmental sensitivities overlayed with areas of proposed project.

2.2 Waters of the United States

A. Documentation indicating that the final Site design accommodates final U.S. Army Corps of Engineers wetland delineation determination, protective buffers, and mitigation actions needed to satisfy the Section 404 permitting authority, as appropriate. Bidder must provide to GPC a copy of any final permit issued by the U.S.

Army Corp of Engineers for the project upon receipt.

(i) A completed Waters of the U.S. (WOTUS) survey and findings report. The WOTUS survey must be no older than 5-years from date of Environmental Assurances submittal. The WOTUS evaluation should be up to date with current regulations in place at the time of Competitive Tier advancement.

(ii) A preliminary Site plan/figure with WOTUS delineation shown.

(iii) If WOTUS impacts will be required, provide an intended permitting strategy and impact minimization statement.

(iv) Any Agency coordination associated with WOTUS, including jurisdictional verifications, permitting, or mitigation efforts.

2.3 State Waters and Protected Buffers

A. If the project is subject to regulations that require waters to have protective buffers, those buffers should be shown on a preliminary Site plan/figure.

B. If impacts to buffers are required, provide a statement acknowledging and outlining any permitting that may be required.

2.4 Cultural Resources

A. Desktop review for archaeological and architectural resources. This will include, minimally:

(i) A review of the Georgia Natural, Archaeological, and Historic Resources Geographic Information System (GNAHRGIS) database for recorded archaeological sites and historic buildings, as well as previous surveys conducted in the area.

(ii) The National Register of Historic Places (NRHP) database maintained by the National Park Service (NPS) and the Georgia State Historic Preservation Office (SHPO).

(iii) Other online resources include:

(a) Atlanta-region historic resources data made available through the Georgia Association of Regional Commissions;

(b) Historic maps (e.g., topographic, soil, and highway) and aerial photographs that can be utilized to determine the potential for unrecorded archaeological and architectural resources;

(c) FindAGrave.com and other online cemetery aggregate sites;

(d) Publicly available tax parcel information that may indicate a cemetery or a historic structure; and

(e) Battlefield core and study areas established by the American Battlefield Preservation Program and the Civil War Sites Advisory Commission.

B. A completed cultural resource study is recommended.

(i) Any completed cultural resources study should conform to the Georgia Council of Professional Archaeologists' *Georgia Standards and Guidelines for Archaeological Investigations* (2019) and industry standard practices for architectural surveys.

(ii) If no field cultural resources study is completed, documentation of why is required.

C. If there are known cultural resources of concern at the Site (defined as a resource that is listed in or eligible for the NRHP, or of unknown NRHP eligibility), a detailed figure or drawing of sufficient scale to show avoidance, or a statement/plan for impacts to the resources, should be submitted.

D. If a cultural resource of concern (defined as a resource that is listed in or eligible for the NRHP, or of unknown NRHP eligibility) will be affected by the proposed project, coordination through the SHPO (Section 106) or the State Archaeologist (due diligence) is encouraged.

2.5 Species of Special Concern – Agency– Section 7 Consultation

A. A completed survey for both federal and state protected species as well as "**Species of Special Concern**," which include any species of plant or animal identified by a state or federal natural resource management

agency as being in need of elevated conservation attention through legal protection, such as the federal Endangered Species Act (e.g., "Endangered," "Threatened," or "Candidate") or state-protected species legislation, or inclusion on a priority list within a state wildlife action plan or similar document that serves as the blueprints for conserving our nation's fish and wildlife and preventing endangered species.

B. A preliminary Site plan/figure showing the location of species findings and Sensitive Environmental Features in relation to proposed panels or areas of land disturbance. "**Sensitive Environmental Features**" refer to the occupied habitat for Species of Special Concern, and unique habitats of conservation concern including, but not limited to, wetlands, streams, springs, caves, sandhills, rock outcrops, and longleaf pine communities as recognized by resource conservation agencies.

C. Documentation of Bidder's engagement with the Georgia DNR, or applicable equivalent Governmental Authority, requesting consultation on Site surveys and Site design to avoid Sensitive Environmental Features, if present. Even though all associated Species of Special Concern might not be legally protected, GPC is engaged with agency and private partners in landscape-scale conservation strategies designed to help preclude the need for additional listings under the federal Endangered Species Act, so Bidder's demonstrated consideration of these species is important to GPC.

D. Documentation of Bidder's engagement with USFWS requesting consultation on Site surveys and Site design.

E. If avoidance of Species of Special Concern and Sensitive Environmental Features is not possible and relocation or "take" is necessary, documentation of appropriate agency concurrence of the actions is required.

F. All permits and relevant correspondence from USFWS and the Georgia DNR, or applicable equivalent Governmental Authority, that outline any opinions, recommendations, and subsequent desired actions, as well as documentation of compliance with agency input.
Please note that all appropriate agency concurrences for take or relocation, and compliance with any agency recommendations, are required for a Bid to meet the environmental assurances component of the RFP.

2.6 Phase I Environmental Assessment. Documentation of any remediation that may be required from Phase I findings and developer's committed next steps based on said findings.

2.7 Water withdrawal and discharge requirements. Depending on bid and generation type, an analysis of water availability (groundwater/surface water) may be necessary. Further, an analysis of the assimilative capacity of the receiving water will be needed to assure that any proposed discharges can comply with water quality standards, Total Daily Maximum Loads (TMDLs), and the designated use of the waterbody. Discharges to a Publicly Owned Treatment Works (POTW) also require verification of available capacity and acceptance of discharge.

2.8 SPCC plans if available and applicable. If not yet available, information on expected oil storage and containment on-site and expected timeline to develop the SPCC plan.

2.9 Relevant air permit applications, draft permits, or final permits if available. If not yet available, information on expected air permit requirements and expected timeline to develop the air permit application and receive final permits.

2.10 Any other documents or assurances that show the Site is compliant with applicable federal or state environmental regulations or laws.

2.11 GPC may request additional information to evaluate a Site's compliance with applicable federal or state laws as well as GPC's efforts and commitments to environmental stewardship. This may include:

A. Technical reports;

B. Survey data;

C. Maps;

D. Engineered drawings;

E. Environmental assessments;

F. Environmental impact avoidance plans/drawings;

G. Minimization/mitigations plans/strategies;

H. Evidence of environmental agency consultation, including email correspondence, formal letters, or permit documents; and

I. Evidence of engagement on these topics with the local community, non-governmental organizations, county/municipal government, or the public.

2.12 APA and BTA Submission Requirements. If the Bid is for an APA or a BTA, the following items must be submitted to GPC prior to execution of an Awarded Contract. If any of the items below are unavailable, then Bidder must provide an explanation of why those items are unavailable.

A. Initial Site Planning and Due Diligence Reports and Documentation

- Phase I Environmental Site Assessment
- Documentation of any remediation of Phase I ESA Findings
- Documentation/Findings of Jurisdictional Waters (WOTUS)
- U.S. Army Corps of Engineers approved jurisdictional verification determination
- Documentation/Findings of Species of Special Concern
- Documentation/Findings of Cultural Resources (Archaeological & Historical)
- Section 404 of the CWA Permit Submissions & Approvals
- Section 7 Consultation Coordination/Documentation (if applicable)
- Section 106 Consultation (if applicable)
- Coordination/Permitting with GA Coastal Resources Division (as applicable)
- USACE/USFWS/SHPO/GA DNR/CRD Coordination
- Design plans that show avoidance and/or impacts to environmental sensitivities
- Erosion, Sedimentation & Pollution Control Final Design Plans (Signed)
- GA EPD NPDES Construction Stormwater General Permit/Notice of Intent (NOI) (or other Governmental Authority, if applicable)
- Local Government Land Disturbance Permit(s) (if applicable)
- Stream Buffer Variance Approval(s) (if applicable)
- Local Government Stormwater Pollution Prevention Plan(s) (if applicable)
- GA EPD NPDES Industrial Stormwater General Permit Coverage/Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) (or other Governmental Authority, if applicable)
- NPDES Wastewater Permit(s) (if applicable)
- Drinking Water Permit (if applicable)
- Air permit applications and/or draft or final permits

B. Construction Documentation

- Stormwater Inspection Reports
- Stormwater Sampling Reports & Submittals
- Copies of site log books
- Copies of any notices of violation (NOV) received
- Documentation of remediation/resolution of NOVs

C. Post-Construction Documentation

- GA EPD Construction Stormwater General Permit Notice of Termination (NOT) (or other Governmental Authority if applicable)

D. Other

- Documentation the Site is in good standing with all agencies and permits
- Permission for GPC to conduct independent site reconnaissance to verify data provided and to ensure compliance obligations are being appropriately met, as described/acknowledged by the Seller
- Documents/records of any adjacent land-owner complaints and/or engagement
- If any of the above items are not available, a detailed description of why is to be provided
- If the Facility is not located in the state of Georgia, allowance for the appropriate operating company of the Southern Companies to review and approve compliance requirements within the applicable state

PART 3 REFERENCES & TOOLS

3.1 GPC has created an "Environmental Guidance Document" that includes environmental considerations and resources that are designed to help a bidder meet the environmental requirements in the siting and development of a new project. This document is located as a supplemental document on the IE Website.

3.2 Bidders must review the Best Management Practices required by a Governmental Authority ("**Required BMPs**") and Recommended Best Practices to assess and consider how the Required BMPs and Recommended Best Practices might apply to their Bid, including with respect to the Facility and Site design, impacts on neighbors, and specific environmental features of the Site or the Facility.

May 23, 2024

EXHIBIT N – ENVIRONMENTAL COMPLIANCE AFFIDAVIT

Georgia Power Company
241 Ralph McGill Blvd NE
Bin No. 10196
Atlanta, Georgia 30308

RE: Georgia Power All-Source Request for Proposals for 2029–2031 Capacity Needs – Environmental Compliance

Facility Address:
Generation Facility Type:
Contact person for the Site/Facility:

Ladies and Gentlemen:

On or before #Month #Day, #Year, and in accordance with the provisions of GPC's All-Source RFP, #BidderLegalName#, a #OrgState# #limited liability company#***OR***#OtherOrgStructure# ("**Bidder**") is submitting one or more bids for consideration to fulfill a portion of the All-Source RFP on behalf of the party to execute an Awarded Contract with GPC ("**Seller**"). Capitalized terms used but not defined in this Affidavit have the meaning assigned in the RFP.

RFP Exhibit M (*Environmental Site Assessment Requirements*) provides various environmental factors that, at a minimum, Bidder must consider, address and document, as applicable, as part of its completed Bid. Bidder acknowledges that failure to consider environmental permitting, compliance, and Site-related environmental factor impacts, or failure to provide documentation of the consideration, will be deemed a Deficient Bid and may preclude further consideration of the Bid.

Bidder represents, warrants, and covenants the following:

1. Bidder is familiar with all applicable federal, state and local environmental regulations regarding the Site/Facility and has considered and addressed each of the factors described in Exhibit M (*Environmental Site Assessment Requirements*);
2. The Site/Facility will, #during the PPA Term# ***OR*** #until Closing# ***OR*** #until completion of Seller's obligations under the BTA#, comply with all applicable federal, state, and local environmental requirements, including obtaining or renewing all applicable state and federal environmental permits with respect to the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Facility. Seller's compliance with environmental laws includes: (i) performance of all studies required or recommended under environmental laws to assess the impacts of the Facility on the environment, wildlife, or cultural resources; and (ii) the mitigation of environmental impacts, including all requirements to seek, obtain, maintain, comply with and, as necessary, renew or modify from time to time, all applicable certificates, licenses, permits, Governmental Authority approvals, environmental certificates, and environmental impact analyses, and if applicable, the mitigation of environmental impacts, including any mitigation measures to reduce or avoid impacts to environmental, wildlife, or cultural resources, including any species conservation strategy or conservation agreement and any cultural resources treatment plan. Seller will be responsible for all costs, expenses, charges, and fees in connection with same;
3. Seller will maintain all required federal, state and local environmental permits #during the PPA Term# ***OR*** #until Closing# ***OR*** #until completion of Seller's obligations under a BTA#;
4. Bidder or Seller, as applicable, will promptly notify GPC in writing of any material change in the status of Bidder's or Seller's environmental compliance during the RFP and, if applicable, #during the PPA Term# ***OR*** #until Closing# ***OR*** #until completion of Seller's obligations under a BTA#; and
5. Bidder and Seller will avoid environmental impacts, if possible, and will mitigate unavoidable environmental impacts as required under federal and state regulations #during the PPA Term# ***OR***

#until Closing# ***OR*** #until completion of Seller's obligations under a BTA#.

6. Seller will not make any change fundamentally altering the preliminary Site plan of the Facility in a manner that will result in a significant environmental/cultural resource impact;

7. Seller will #during the PPA Term# ***OR*** #until Closing# ***OR*** #until completion of Seller's obligations under a BTA# on a regular basis, or as otherwise may be required by any Governmental Authority, review and maintain and comply with all BMPs and any other environmental requirements in connection with the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Facility;

8. If #during the PPA Term# ***OR*** #prior to Closing# ***OR*** #until completion of Seller's obligations under a BTA# 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 BMPs or any other environmental requirements, Seller will take steps to regain compliance in accordance with any requirements of any applicable Governmental Authority or otherwise as promptly as commercially practicable. Seller will review all updates to, and any new, BMPs or any other environmental requirements on a regular basis and will take steps as may be required to comply with any new or updated BMPs or any other environmental requirements; and

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

10. If this Bid advances to the Competitive Tier, Bidder agrees to provide GPC Environmental Assurances by the due date noted in the Solicitation Schedule.

Bidder acknowledges that a statement from Bidder that "this work is being completed" or that "work is being done according to appropriate guidelines" is insufficient to meet the environmental requirements for a completed Bid.

Bidder does solemnly swear or affirm under penalty of perjury that the information Bidder has provided in this Affidavit is based on Bidder's own personal knowledge and is true, complete, and correct. Bidder acknowledges that any change in compliance status constitutes a change of information, notice of which Bidder or Seller, as applicable, must provide to GPC promptly. Bidder further certifies that Bidder personally examined and is familiar with all the information in this Affidavit, including any exhibits, attachments, and appendices, and further certifies that information to be true, correct, and complete.

Bidder's Notarized Signature on Following Page

#BidderLegalName#

By: _____

Name Printed: _____

Title: _____

Date: _____

State of _____

County of _____

On this _____ day of _____, _____, before me appeared _____, the person who signed the preceding Environmental Compliance Affidavit in my presence and who swore or affirmed that he/she understood the document and freely declared it to be truthful.

_____
Official Signature of the Notary

State of _____ County of _____

Official Seal of the Notary

My Commission Expires:

EXHIBIT O – FACILITY TECHNICAL REQUIREMENTS

PART 1 WINTERIZATION REQUIREMENTS

1.1 Each Submission must comply with the following requirements:

A. The Facility must comply with applicable EOP-012-1 (*Extreme Cold Weather Preparedness and Operations*) requirements, including Requirements R1 (applicable to New Facilities), R2 (applicable to Existing Facilities), R3, R4, R5, R6, and R7. EOP-012-1 (Extreme Cold Weather Preparedness and Operations) is published by NERC and available at: https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-012-1.pdf.

B. Bidder must provide, by no later than Bid Due Date the Facility's: (i) extreme cold weather temperature; and (ii) cold weather preparedness plan.

PART 2 CYBERSECURITY

2.1 Each Facility must comply with the requirements for Bulk Electric System generation facilities in North America set forth in the NERC reliability standards (*Cyber Security Standards*) created pursuant to FERC order 706 (*Mandatory Reliability Standards for Critical Infrastructure Protection*) and any other cyber security best practices consistent with Prudent Industry Practices.

2.2 For all BESS Submissions, programmable electronic components of the: (i) Battery Management System (BMS); (ii) BESS Controller; and (iii) Site Controller (including controls, hardware and software) must not be sourced from or manufactured by Foreign Entities of Concern ("FEOC") as defined in 42 U.S.C. § 18741(5) and subsequently interpreted in "Interpretation of Foreign Entity of Concern," 89 Fed. Reg. 37085 (May 6, 2024) or sourced from or manufactured in one of the following countries: China, Russia, North Korea, Saudi Arabia, Serbia, Algeria, Venezuela, Iran, Iraq, Belarus, Kazakhstan, Kyrgyzstan, Uzbekistan, Syria, Lebanon, South Sudan, Pakistan, Cuba, or the Netherlands. For purposes of this provision, the terms Battery Management System, BESS Controller, and Site Controller are defined as follows:

A. Battery Management System (BMS): A control system used to protect the battery and to provide key parameters, such as state of charge, battery health, and temperature.

B. BESS Controller: A controller used to manage multiple stacks or arrays of batteries. This controller manages the balancing of the batteries.

C. Site Controller: A control system used to manage one or more sources (Photovoltaic solar, batteries, etc.) to achieve facility level control.

PART 3 ADDITIONAL MINIMUM FACILITY TECHNICAL REQUIREMENTS FOR ESS FACILITIES

3.1 PPA Bids for Facilities utilizing solar photovoltaic modules as a Renewable Resource must meet the following requirements:

A. Hydrology and Site drainage

(i) Site grading must ensure positive drainage of the Site.

(ii) Site design must ensure no flooding, no standing water, and no increase in flows offsite.

(iii) The drainage design must be based on a 100-year, 24-hour rain event.

(iv) No portion of the Facility may be located in a floodplain without the proper permit(s) from the appropriate Governmental Authority.

(v) The construction contract scope must include responsibility of contractor to close out the National Pollutant Discharge Elimination System (NPDES) permit.

B. Site grading and stabilization

(i) Measures must be in place to prevent sediment loss.

(ii) Permanent site vegetation and site stabilization must be completed before demobilizing.

C. Facility Design

(i) Equipment must be sized to deliver rated Facility nameplate power at the POI, accounting for worst-case local ambient temperature, and interconnection reactive power requirement.

(ii) Site performance at the POI must meet the interconnection requirements as set forth by the Interconnection Provider.

(iii) Reactive power requirement must be solely met by the inverters without the use of capacitor banks.

(iv) All equipment enclosures (e.g., combiner boxes) must be tamperproof and lockable (e.g., a special tool or key is required to open the equipment enclosure).

(v) Hurricane resistance rating and restoration plan.

D. Major Equipment Vendors

(i) Major equipment vendors must demonstrate quality and performance and be prepared to perform future warranty and maintenance work.

(ii) Major equipment must be manufactured in factories certified to both IEC TS 62941 and ISO 9001.

(iii) Final major equipment vendors subject to review by GPC.

E. PV Module

(i) Solar modules must be sourced from Bloomberg New Energy Finance (BNEF) Tier 1 photovoltaic manufacturers.

(ii) Provide detailed Highly Accelerated Life Test (HALT) report (PVEL or equivalent) for the specific module proposed, preferably from independent third-party testing agency.

(iii) Provide module manufacturing location and Bill of Material (BOM).

F. Inverter

(i) Inverters must be listed to UL1741 latest version.

(ii) Inverters may be reviewed by GPC.

(iii) Inverters must be capable of producing their maximum rated reactive power at all active power levels (from 0% to 100% inclusive), when the primary energy source is available and not available.

(iv) Inverters must be equipped with DC ground detection means through either insulation monitoring or differential current monitoring.

(v) Facilities that are transmission interconnected must conform to NERC recommendations and requirements pertaining to IBR facilities.

G. Inverter Step-up Transformer

(i) Transformers must be two-winding and KNAN type cooling; winding must be copper.

(ii) All transformers must be IEEE routinely tested including dielectric test, impulse test, and power factor test. Lightning impulse tests must include one full wave test.

(iii) Oil reservoir for spill containment must be provided for each transformer.

H. MV Switchgear

(i) MV switchgear protection scheme must, at minimum, include main break protection, feeder breaker protection, bus differential protection, a dedicated bus lockout, and breaker failure functionality.

(ii) All current transformers must have an accuracy class of C400 or higher.

I. Grounding

(i) Dual grounding, as depicted in IEEE 665, must be provided in all cases with an equipment grounding conductor (for a reliable ground fault current return path) and an additional local safety ground (for limiting touch potential).

J. PV Monitoring

(i) Meteorological and performance monitoring equipment/system must conform to IEC61724 and the requirements defined for a Class A (high) accuracy monitoring system.

(ii) Table 4 of IEC61724 will be used to determine the number of devices required. At minimum two devices of each measurement type must be provided.

(iii) At minimum two soiling stations utilizing full sized modules must be provided.

K. Testing

(i) Operational test, performance ratio test, and Capacity test (ASTM Based) must be performed for PV facilities.

(ii) Additional testing, if required under the Interconnection Agreement, must also be performed.

(iii) NERC testing must be performed for facilities defined as a Bulk Electric System (BES).

L. Main Power Transformer

(i) Transformers must be capable of meeting 100% of Facility output using 100% ONAN-cooling.

(ii) Transformer suppliers may be subject to review.

(iii) RIS-type bushings are preferred.

(iv) Transformers must be designed with a 25% temporary emergency overload.

(v) Transformer overload capability must be unlimited by components (i.e., bushing ratings, DETC rating, etc.)

(vi) The transformer tank design must be in accordance with IEEE C57.156 Table 1 to mitigate tank rupture in the event of a high-energy arcing fault internal to the tank.

M. Facility Substation

(i) Facility substations must meet safety requirements of the NESC-2023 and comply with the design principles set forth ASCE 7, ASCE 113, IEEE 605, and IEEE 80.

(ii) Facility substations must be commissioned to NETA ATS 17 standards.

(iii) All bus and cable sizes must be designed with a maximum operating temperature of 80 °C with a 40 °C ambient, with no sun and 2 ft/s wind.

(iv) Spatial separation from oil-filled electrical equipment must be compliant with IEEE 979-2012.

(v) All equipment suppliers, protection and control designs and settings, and grounding design/modeling will be subject to review by GPC.

N. Cyber Security

(i) Facility connectivity must comply with NERC CIP policies.

O. End-of Life Disposal

(i) The Toxicity Characteristic Leaching Procedure (TCLP) testing procedure and results for modules must be submitted.

(ii) Description of the end-of-life disposal/recycling plan must be included.

3.2 PPA Bids for Facilities utilizing solar photovoltaic modules with an ESS comprised of a battery energy storage system ("**BESS**") must meet the requirements set forth above in Section 2.1 of this Exhibit O and the following requirements regarding the ESS:

A. BESS

(i) Units listed to UL9540 2nd edition.

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

(iii) BESS complies with the version of NFPA 855 in effect at the time of Commercial Operation.

(iv) A water connection and firefighting system shall be installed for responding to a thermal event.

(v) Thermal Management System (TMS) design with redundancy and/or contingency for TMS component failure are required (ex. redundant HVAC, fans, or ability to operate in derated condition with TMS component failure).

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

(vii) Provide detailed augmentation plan for the Facility over the PPA Term.

(viii) BESS must be sized to maintain rated nameplate instantaneous Energy output capacity at the POI.

B. Inverter

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

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

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

C. Facility Design

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

(ii) Battery enclosures must be spaced per UL9540A testing results.

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

D. Testing

(i) Continuous power test, energy capacity test, and RTE test must be performed for the BESS.

(ii) Testing must be performed to demonstrate the combined output of BESS and the Renewable Resource are controlled to mitigate equipment overload.

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

(iv) Additional testing must be performed as required.

E. End-of Life Disposal / Demolition

(i) Description of the end-of-life disposal/recycling plan must be included.

3.3 Bids for BTAs for Build Transfer Facilities must meet the following requirements, including the items listed above in Section 2.2of this Exhibit O applicable to ESS:

A. Hydrology and Site Drainage

(i) Site grading must ensure positive drainage of the Site.

(ii) Site design must ensure no flooding, no standing water, and no increase in flows offsite, as prescribed by the Georgia Stormwater Management Manual.

(iii) The drainage design must be based on a 100-year, 24-hour rain event.

(iv) No portion of the Facility will be located in a floodplain without the proper permit(s) from the appropriate Governmental Authority. GPC reserves the right to review the location of any portion of a Facility proposed to be in a floodplain, as well as any such permit(s).

(v) The construction contract scope must include responsibility of contractor to close out the National Pollutant Discharge Elimination System (NPDES) permit.

(vi) Contractor will remain responsible for getting the Notice of Termination (NOT) verified and signed by the agency.

B. Site Grading and Stabilization

(i) Balanced earthwork is desired. Grades within the array to be used for vehicular/equipment ingress and egress must be no steeper than 10%. The maximum slope for areas of elevation transition must not exceed a ratio of 3:1.

(ii) Measures must be in place to prevent sediment loss.

(iii) Permanent site vegetation and site stabilization must be completed before Final Completion.

C. Facility Design

(i) Equipment must be sized to deliver rated Facility nameplate instantaneous energy output at the POI, accounting for worst-case local ambient temperature, plant losses (including auxiliary power), and interconnection reactive power requirement.

(ii) Site performance at the POI must meet the interconnection requirements as set forth by the Interconnection Provider.

(iii) Reactive power requirement must be solely met by the inverters without the use of capacitor banks.

(iv) Input and output of all control and communication devices must be wired out to marshalling terminal blocks that is easily accessible.

(v) All equipment enclosures (e.g., combiner boxes) must be tamperproof and lockable (e.g., a special tool or key is required to open the equipment enclosure).

D. Major Equipment Vendors

(i) Major equipment vendors must demonstrate quality and performance and be prepared to perform future warranty and maintenance work.

(ii) Major equipment must be manufactured in factories certified to both IEC TS 62941 and ISO 9001.

(iii) Final major equipment vendors subject to review and approval by GPC.

E. PV Module

(i) Solar modules must be sourced from Bloomberg New Energy Finance (BNEF) Tier 1 photovoltaic manufacturers.

(ii) Photovoltaic modules must be framed. All string connectors must use the same connector manufacturer and model as the PV module lead.

(iii) Provide detailed Highly Accelerated Life Test (HALT) report (PVEL or equivalent) for the specific module proposed, preferably from independent third-party testing agency.

(iv) Provide module manufacturing location and Bill of Material (BOM).

F. Inverter

(i) Inverters must be listed to UL1741 latest version.

(ii) Inverters must be approved by GPC.

(iii) Inverters must be capable of producing their maximum rated reactive power at all active power levels (from 0% to 100% inclusive), when the primary energy source is available and not available.

(iv) Inverters must be equipped with DC ground detection means through either insulation monitoring or differential current monitoring.

(v) A lockable fused disconnect must be provided at each discrete incoming DC input.

(vi) Facilities that are transmission interconnected must conform to NERC recommendations and requirements pertaining to IBR facilities.

G. Inverter Step-up Transformer

(i) Transformers must be two-winding and KNAN type cooling; winding must be copper.

(ii) Transformers must be equipped with fully rated no-load tap changers at HV side two taps at 2.5% above nominal position and two taps at 2.5% below nominal position must be provided.

(iii) All transformers must be IEEE routinely tested including dielectric test, impulse test, and power factor test. Lightning impulse tests must include one full wave test.

(iv) Two IR windows must be provided on both low side and high side terminations.

(v) Oil reservoir for spill containment must be provided for each transformer.

H. MV Switchgear

(i) Outdoor rated metal-clad medium-voltage (MV) switchgear (e.g., over a sectionalizer cabinet) must be provided when required to combine and reduce the number of circuits to the substation; a main breaker must be provided.

(ii) MV switchgear protection scheme must at minimum include main break protection, feeder breaker protection, bus differential protection, a dedicated bus lockout, and breaker failure functionality.

(iii) All current transformers (CT) must have an accuracy class of C400 or higher.

(iv) Bidder must coordinate with GPC on specific relays used and protection philosophy.

I. Grounding

(i) Dual grounding, as depicted in IEEE 665, must be provided in all cases with an equipment grounding conductor (for a reliable ground fault current return path) and an additional local safety ground (for limiting touch potential).

(ii) Safety ground must be bare stranded copper #2/0 AWG or larger and direct buried, with risers bonded to each row of PV array and all equipment.

(iii) Grounding study must be provided for the entire Site to determine the safety grounding design for limiting hazardous touch and step potentials during a worse case postulated ground fault event.

J. Cable Management

(i) All equipment enclosure within the PV array must be located at the end of PV racking rows towards the road and facing the same direction whenever possible.

(ii) All DC wiring must be below grade unless routed along and below the PV array to prevent the blocking of aisle space between rows. However, an E-W CAB system will be acceptable for Facilities with trackers. All DC and LV AC cables below grade must be routed in conduit.

(iii) PV array must use single string harness that routes strings directly to the combiner box or the string inverter. (i.e., harness that combines multiple strings must not be used).

K. PV Monitoring

(i) Meteorological and performance monitoring equipment/system must conform to IEC61724 and the requirements defined for a Class A (high) accuracy monitoring system.

(ii) Table 4 of IEC61724 must be used to determine the number of devices required. At minimum two devices of each measurement type must be provided.

(iii) For Facilities using bifacial modules, an albedometer must be provided for each GHI pyranometer.

(iv) At minimum two soiling stations utilizing full sized modules must be provided.

L. Testing

(i) Operational test, performance ratio test, and capacity test (ASTM Based) must be performed for PV facilities.

(ii) Additional testing, if required under the Interconnection Agreement, must also be performed.

(iii) NERC testing must be performed for facilities defined as a Bulk Electric System (BES).

M. Main Power Transformer

(i) Transformers must be capable of meeting 100% of Facility output using 100% ONAN-cooling.

(ii) Transformer suppliers must be subject to review and approval by GPC.

(iii) A design review prior to ordering materials utilizing third-party transformer design consultant must be approved by GPC.

(iv) RIS-type bushings are preferred.

(v) Transformers must be designed with a 25% temporary emergency overload.

(vi) Transformer overload capability must be unlimited by components (i.e., bushing ratings, DETC rating, etc.)

(vii) The transformer tank design must be in accordance with IEEE C57.156 Table 1 to mitigate tank rupture in the event of a high-energy arcing fault internal to the tank.

N. Facility Substation

(i) Facility substations must meet safety requirements of the NESC-2023 and comply with the design principles set forth ASCE 7, ASCE 113, IEEE 605, and IEEE 80.

(ii) Facility substations must be commissioned to NETA ATS 17 standards.

(iii) All bus and cable sizes must be designed with a maximum operating temperature of 80 °C with a 40 °C ambient, with no sun and 2 ft/s wind.

(iv) Spatial separation from oil-filled electrical equipment must be compliant with IEEE 979-2012.

(v) All equipment suppliers, protection and control designs and settings, and grounding design/modeling must be subject to review.

O. SCADA

(i) The design must provide a real-time data link for remote operation (using Ignition) by Southern Monitoring and Diagnostic Center and also provide a feed to system-wide historian data collection (Pi). These data links can be directly from the site controller or from a separate SCADA controller.

(ii) The data link preference is OPC DA, DNP, or Modbus.

(iii) The real time data must include inverters, solar details, MET station (if applicable), breakers, meters, and site controller. Solar details to pass data down to string or the lowest level possible.

(iv) Site controller, battery management system (if applicable) and inverters time must be synchronized to a local time clock. The preference is to time sync with any devices that can take a remote time sync.

(v) Local Human Machine Interface platform must be Ignition by Inductive Automation.

P. Cyber Security

(i) Equipment providers and site design must comply with NERC CIP policies as well as the Southern Company Cyber Security Policy, which will be made available to Bidders upon their submission of an intention to Bid a Build Transfer Facility by the date set forth in the Solicitation Schedule.

Q. End-of Life Disposal

(i) The Toxicity Characteristic Leaching Procedure (TCLP) testing procedure and results for modules must be submitted.

(ii) Description of the end-of-life disposal/recycling plan must be provided.

Pro Forma Power Purchase Agreement for Firm Capacity, Associated Energy, and Ancillary Services from an Energy Storage System with Renewable Resource for All-Source Capacity Request for Proposals for 2029 – 2031 between Georgia Power Company and #SellerLegalName#

This agreement contains confidential information for use by Georgia Power Company, 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 PPA uses the defined terms identified in this *Schedule of Defined Terms* or in the body of this PPA and the rules of construction identified in Section 20.17 (*Contract Interpretation*).

ACP: See *Annual Capacity Price*.

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

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

AGC: See *Automatic Generation Control*.

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

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

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

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

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

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

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

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

regarding the Facility or the metered electric energy output from the Facility; or (iii) the metered electric energy produced by the Facility.

Annual Capacity Price (ACP): The annual price to be paid by GPC to Seller for GPC's purchase of the Facility's capacity and energy, as set forth in Table C-1 in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*).

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

Annual Renewable Energy Performance True-up: See Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*).

Annual Renewable Energy Factor (AREF): See Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*).

Annual Renewable Energy Forecast: Seller's binding forecast included as Exhibit D (*Annual Renewable Energy Forecast*).

ASC: The FASB Accounting Standards Codification.

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

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

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

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

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

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

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

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

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

Charging Energy: Any energy used to charge the ESS, including Renewable Energy and Grid Charging Energy, in accordance with GPC's AGC Setpoint signals.

Claim: Any loss, damage, cost, expense, or liability (on an After-Tax Basis) for any damage or claim (including any demand, suit, settlement, judgment, penalty, fine, proceeding, or action of any kind) for: (i) personal or bodily injury (including death); (ii) property damage (including loss of use); (iii) defects; (iv) infringement; (v) monetary damage or expense; or (vi) equitable relief, including all Claim expenses (e.g., actual attorneys' fees reasonably incurred; investigation, defense, litigation, court, arbitration, or mediation costs; and expert, consultant, arbitrator, or mediator fees or expenses and bond expense).

Commercial Operation: The Facility's ability to meet the requirements of Section 7.1.5 (*Commercial Operation*) on a reliable basis.

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

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

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

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

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

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

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

CPT: See *Central Prevailing Time*.

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

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

Curtailed Renewable Energy: Energy that could have been generated and delivered as Renewable Energy but for an AGC Setpoint signal or GPC directive dispatching the Renewable Resource below the Potential High Limit. The amount of Curtailed Renewable Energy will be determined based on the difference, during a Curtailment, between the Potential High Limit and the greater of: (i) the AGC Setpoint signal; or (ii) the Renewable Energy generated by the Renewable Resource.

Curtailment: Any period when the AGC Setpoint or a GPC directive results in the Renewable Resource generating at a setpoint below the Potential High Limit.

Cycle or Cycled: The equivalent charge of Storage Device Operating Energy (in MWhs) from 0% to 100% and subsequent discharge from 100% to 0%, regardless of whether the complete charge or complete discharge occurs during one or more charges or discharges. For Daily Cycle determinations, the Day in

which the relevant discharging occurs will include the discharge in the Cycle determination for that day, regardless of when the charging occurs.

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

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

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

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

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

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

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

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

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

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

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

Emergency Condition: Defined in the IA.

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

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

Environmental Attributes: Either: (i) all fuel-related, emissions-related, air quality-related, or other environmental-related aspects, claims, characteristics, benefits, credits (including RECs), reductions, offsets, savings, allowances, efficiencies, certificates, tags, attributes, demand reductions, or similar products or rights (including all of those relating to greenhouse gases and all green certificates, green tags, renewable certificates, RECs, CO2 credits, and emission reduction credits, and all those that otherwise arise or result from the generation of energy from the 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, carbon or greenhouse gas offset program, carbon or greenhouse trading program, carbon or greenhouse gas cap and trade program, carbon or greenhouse taxation, electricity savings program, or other environmental program, incentive, mandate, or objective, in each case whether voluntary or mandatory; or (ii) 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 investment tax credit (ITC), production tax credit (PTC), or depreciation deduction; (II) any grant in lieu of ITC or any similar financial payment or grant regarding the Facility or the metered electric energy output from the Facility; or (III) the metered electric energy produced by the Facility.

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

EPA: The U.S. Environmental Protection Agency.

ET: See *Eastern Time*.

ESS: See *Energy Storage System*.

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

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

Facility: The complete facility comprised of the ESS and the Renewable Resource. The Facility will include all auxiliary equipment and facilities necessary or used for the production, control, storage, delivery, or

monitoring of electricity produced or stored on the Site. All equipment and facilities installed on Seller's side of the POI at the Site will be part of the Facility.

FASB: Financial Accounting Standards Board.

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

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

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

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

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

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

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

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

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

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

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

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

Grid Charging: Charging the ESS from the Electric System.

Grid Charging Energy: Energy provided by GPC for the purpose of charging the ESS.

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

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

Indebtedness: For any Person, each of the following without duplication: (i) obligations of the Person for borrowed money evidenced by bonds, debentures, notes, loan agreements, or other similar instruments; (ii) purchase money indebtedness of the Person constituting an obligation to pay the deferred purchase price of property or services, other than trade payables incurred in the ordinary course of business; (iii) lease obligations of the Person that are capitalized on the balance sheet of the Person in accordance with GAAP; (iv) liabilities of the second Person secured by any lien on any property of the first Person, whether

or not the liabilities have been assumed by the first Person; (v) liabilities of the Person regarding letters of credit, applications, or reimbursement agreements for the liabilities; (vi) net obligations of the Person under any swap or hedging agreement; or (vii) indebtedness of the Person owing under direct or indirect guarantees of indebtedness of any other Person or constituting obligations to purchase, acquire, or otherwise protect or insure a creditor against loss regarding indebtedness of any other Person, excluding endorsements of negotiable instruments for deposit or collection in the ordinary course of business.

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

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

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

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

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

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

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

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

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

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

kV: Kilovolt(s).

kW: Kilowatt(s).

kWh: Kilowatt-hours (AC).

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

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

Maintenance Schedule: Seller's maintenance schedule, including the scope of the maintenance, and

outage plans for the Facility that conform to Prudent Industry Practices for similar equipment, including in terms of frequency and duration. Upon GPC approval, the Maintenance Schedule establishes Scheduled Outages.

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

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

MCF: See *Monthly Capacity Fee*.

MCP: See *Monthly Capacity Payment*.

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

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

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

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

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

$$MCP = MCF - MCR$$

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

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

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

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

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

MVF: See *Monthly Value Factor*.

MW: Megawatt alternating current (AC).

MWh: Megawatt-hour (AC).

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

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

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

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

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

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

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

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

Party or Parties: Either GPC or Seller or both.

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

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

Performance Security: Security in the form of Eligible Collateral that Seller must deliver to GPC to secure Seller's due performance of Seller's PPA obligations, as required under Section 6.1 (*Performance Security*) and Part 1 of Exhibit A-2 (*Performance Security and Liquidated Damages*).

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

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

Point of Interconnection (POI): The point of connection between the STT and the Facility, as identified in Table A-1 of Exhibit A (*Facility Description and Additional Details*) and further described in the IA.

Potential High Limit (PHL): The estimated value of the potential instantaneous power output (MW) of the Renewable Resource, as further described in Exhibit G (*AGC and Facility Minimum Data Requirements*).

PPA: This Power Purchase Agreement for Firm Capacity, Associated Energy, and Ancillary Services from an Energy Storage System with a Renewable Resource between GPC and Seller.

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

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

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

Prudent Industry Practices: Any of the practices, methods, standards, or acts engaged in or approved by a significant portion of the electric power industry in the United States that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known when a decision was made, could have been expected to accomplish the desired result, consistent with good business practices, reliability, economy, safety, and expedition. Prudent Industry Practices are not

intended to be limited to the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the United States electric power industry having due regard for, among other things, manufacturers' warranties, applicable law, and, as applicable, requirements of this PPA.

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

RCOD: See *Required Commercial Operation Date*.

RECs: See *Renewable Energy Credits*.

Renewable Charging Energy: Renewable Energy (excluding losses) delivered to the ESS.

Renewable Discharging Energy: Renewable Charging Energy discharged from the ESS to the POI**.**

Renewable Energy: The energy and all associated Environmental Attributes, Electrical Products, and capacity generated by the Renewable Resource and discharged by the Renewable Resource or the ESS.

Renewable Energy Credits (RECs): Any 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, whether at the Effective Date or at any time during the Term.

Renewable Resource: The renewable energy generating facility at the Site, as further described in Exhibit A (*Facility Description and Additional Details*), that is interconnected to the STT at the POI.

Renewable Resource Capacity: The generating capability of the Renewable Resource on its own, without the ESS.

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

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

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

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

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

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

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

SDDC: See *Storage Device Design Capacity*.

SDDD: See *Storage Device Discharge Duration*.

SDOE: See *Storage Device Operating Energy*.

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

Seller Entity: Each of Seller or any Affiliate, contractor, supplier, contractual party, or customer, or an

officer, director, employee, representative, or agent of one of them.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STT: See *Southern Transmission Territory.*

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

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

Technical Limits: The operational limits and constraints described in Exhibit F (*Facility Operating and Dispatching Requirements*).

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

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

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

Test Charge Energy Price: Equals AIER.

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

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

(Test Discharge Energy Price = AIER x 0.90).

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

Threshold Amount: As defined in Section 17.1.2 (*Excess Change of Law Capital Expenditures*).

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

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

Upgrade Security: A Letter of Credit provided by Seller if GPC determined that Electric System improvement costs beyond the POI are necessary to deliver the full output of the Facility to GPC's customers, upon which security GPC may draw in accordance with Section 7.4 (*Grid Cost Improvements*).

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

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

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

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

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

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

PART 1. TERM OF AGREEMENT

1.1 Term. Subject to applicable law and any earlier termination per Section 1.3 (*Conditions Subsequent*) or Section 16.3 (*Remedies*), this PPA becomes effective on the Effective Date and continues for the Term.

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

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

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

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

1.3.2. FERC Acceptance with Modification. Despite the preceding provisions, if, before 285 Days after the granting of a Commission Certificate, FERC issues a valid order accepting this PPA subject to material modification or condition(s), including acceptance subject to refund following an administrative proceeding, then the adversely affected Party or Parties (as applicable) will have the right to terminate this PPA if the material modification or condition(s) are not acceptable. By no later than 15 Days after the issuance date of a FERC order, Seller must provide GPC with a copy of the FERC order along with written notice of whether the FERC order is subject to material modification or condition(s) that adversely affect Seller and, if so, whether the material modification or condition(s) are acceptable to Seller. If Seller fails to provide the written notice before the 15th Day, then Seller will be deemed to have accepted any FERC order accepting this PPA subject to material modification or condition(s).

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

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

1.3.3. Commission Certificate Target Date Conditions.

(i) GPC's Initial Termination Rights for Commission Certificate Target Conditions. If: (a) after the Commission Certificate Target Date the Commission has not approved this PPA through a Commission Certificate, or (b) the Commission has issued a Commission Certificate that is subject to material qualification or condition(s) that adversely affect GPC, then GPC may terminate this PPA upon written notice to Seller, so long as the notice is delivered to Seller by no later than 30 Days after (i) the Commission Certificate Target Date, or (ii) the date the Commission issued the Commission Certificate that is subject to material qualification or condition(s) that adversely affect GPC. If Commission certification is delayed for reasons not attributable to Seller and GPC does not elect to terminate this PPA, Seller will be entitled to an RCOD extension.

(ii) Motion to Reconsider or Appeal; Extended PPA Termination Rights for Commission Certificate Target Conditions. If, within 30 Days after the issuance of the Commission Certificate, either Party files a motion to reconsider with the Commission or an appeal with Fulton County Superior Court regarding the issuance or denial of the

Commission Certificate, GPC may terminate this PPA upon written notice to Seller, so long as the notice is delivered to Seller no later than 80 Days after the Commission Certificate Target Date.

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

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

1.3.4. Revocation, Qualifications, or Conditions. Despite Section 1.3.3 (*Commission Certificate Target Date Conditions*), if, at any time during the Term the Commission issues an amendment to the Commission Certificate regarding this PPA ("**Amended Commission Certificate**") that imposes a material qualification or condition that adversely affects GPC and that is not acceptable to GPC, GPC will have the right to terminate this PPA, unless GPC and Seller agree to amend this PPA in accordance with Section 1.3.6 (*PPA Amendment*). Within 15 Days after the issuance of the Amended Commission Certificate, GPC will provide Seller with written notice of whether the Amended Commission Certificate is subject to material qualification or condition and, if so, whether the material qualification or condition is acceptable to GPC. If GPC does not provide notice within the 15-Day period, the Amended Commission Certificate will be deemed to be acceptable to GPC. Upon a termination in accordance with this Section 1.3.4: (i) neither Party will have any further liability to the other Party under this PPA; and (ii) GPC will promptly return to Seller any unused portion of Performance Security or Upgrade Security, if applicable.

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

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

PART 2 REPRESENTATIONS, WARRANTIES, AND COVENANTS

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

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

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

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

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

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

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

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

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

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

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

2.1.11. Legal Right to Possess and Operate Facility and Deliver Capacity, Energy, and Ancillary Services. Except as may be allowed under Sections 2.1.10 (*Sale, Lease, Transfer, or*

Other Disposal of Business or Assets Resulting in Material Adverse Effect), 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*), or any other provision of this PPA, Seller must maintain the legal right to and will possess and operate the Facility and deliver the capacity, energy, energy storage services, and Ancillary Services of the Facility to GPC in accordance this PPA.

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

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

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

2.1.15. Extreme Weather Technical Requirements. Throughout the Term, the Facility will comply with NERC EOP-12-1 (*Extreme Cold Weather Preparedness and Operations*).

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

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

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

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

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

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

2.2.6. Creditworthiness and No Bankruptcy Proceedings. GPC is Creditworthy (determined solely by clause (i) of the definition of Creditworthy) and there are no bankruptcy proceedings pending or being contemplated by it or, to its knowledge, threatened against it.

PART 3 PRESERVATION OF TERMS; CONSENTS; TAXES

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

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

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

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

3.3 Taxes.

3.3.1. Payment by Seller. Subject to Section 17.1 (*Change of Law*), Seller will be responsible for, and must pay, or cause to be paid, all Taxes on or regarding: (i) the Facility, including its development, permitting, design, engineering, procurement, construction, testing, startup,

ownership, leasing, financing, operation, and maintenance; and (ii) the production, storage, and delivery of energy and Ancillary Services to be provided to GPC arising, in the case of energy, before the time of Seller's delivery of energy to GPC at the POI, or, in the case of Ancillary Services, before the time the Ancillary Services are made available to GPC.

3.3.2. Payment by GPC. GPC will pay or cause to be paid all Taxes on or regarding: (i) energy received by GPC arising at and after the time the energy is delivered by Seller to the POI; and (ii) Ancillary Services received by GPC arising at and after the time the Ancillary Services are made available to GPC. The Taxes will include sales, use, excise, or other similar Taxes on the sale to GPC and purchase from Seller of capacity, energy, and Ancillary Services in accordance with this PPA.

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

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

PART 4 SALE AND DELIVERY OF CAPACITY AND ENERGY

4.1 Agreement to Sell and Purchase.

4.1.1. Sale and Purchase Obligations During the Term. From the Delivery Commencement Date through the end of the Term, but subject to the terms of this PPA, Seller must sell to GPC: (i) the entire electrical capability of the Facility, net of any Station Service; and (ii) all associated energy storage services and Ancillary Services. The receipt or delivery of energy to the POI includes the transfer to GPC of all Ancillary Services associated with the energy. Seller must make available and provide to GPC all Ancillary Services as instructed by GPC at all power output levels and during periods that the Facility is not actively delivering energy. The Monthly Capacity Payment (subject to the Monthly Capacity Reduction in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) is the exclusive compensation owed to Seller for capacity, energy, energy storage services, and Ancillary Services under this PPA. All Renewable Energy, whether dispatched to the POI or the ESS, will be provided to GPC for no additional cost beyond the Monthly Capacity Payment. GPC will have full discretion to dispatch the Renewable Resource or ESS to cause Renewable Energy or Grid Charging Energy to be stored in the ESS or sent to the POI, and GPC will owe no separate payment for any energy delivered under this PPA, regardless of the source of the energy.

4.1.2. Dispatch and Energy Delivery. GPC will send separate AGC Setpoint signals every six seconds to the Renewable Resource and to the ESS. If the Renewable Resource is not being curtailed, the AGC Setpoint signal will echo either the Operating High Limit or the Potential High Limit of the Renewable Resource. GPC retains full control of energy delivery, whether through AGC or specific directives from GPC, from both the Renewable Resource and the ESS.

4.1.3. Station Service. Seller is responsible for all Station Service at Seller's expense. If the Facility is located within the state of Georgia, Seller must arrange Station Service for the Facility in accordance with the Georgia Territorial Electric Service Act (O.C.G.A. §§ 46-3-1 through 46-3-15). Seller may, at Seller's discretion, use energy generated by the Renewable Resource but not stored in the ESS to provide Station Service. Seller must separately meter Auxiliary Operational Load at all times, and Auxiliary Operational Load will not be netted as part of Charging Energy or Discharging Energy. Seller will be responsible for all costs associated with Station Service used for the operation

of equipment (e.g. power conversion stations) during periods when the Renewable Resource is not generating, or the ESS is not charging or discharging (e.g. idle).

4.1.4. Delivery of Energy; Risk of Loss; Balancing Services. Seller must deliver capacity and energy from the Facility to GPC at the POI. The risk of loss of Grid Charging Energy will pass from GPC to Seller at the POI, and the risk of loss of Discharging Energy will pass from Seller to GPC at the POI. The Facility will interconnect to the STT at the POI and must be situated such that GPC can provide balancing services and Grid Charging under the Southern OATT. GPC will be responsible for providing generator balancing services regarding the SBAA and Southern OATT necessary for the receipt of energy in accordance with GPC's dispatch instructions and for any associated costs.

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

4.1.6. GPC's Dispatch Right for Storage Device Design Capacity and Ancillary Services. GPC will be entitled to dispatch and receive, and if dispatched by GPC, Seller must deliver, up to the SDDC and all Ancillary Services associated with the ESS, subject to the Interconnection Limit, Technical Limits, and dispatch procedures set forth in Exhibit F (*Facility Operating and Dispatching Requirements*).

4.1.7. Delivery of Renewable Energy. Commencing on the Delivery Commencement Date and continuing throughout the Term, subject to the terms and conditions of this PPA, GPC will receive from Seller at the POI or the ESS all Renewable Energy produced by the Renewable Resource, less any Renewable Energy used as Station Service. However, (i) Seller is prohibited from delivering, and GPC is not obligated to receive, Renewable Energy in an amount that exceeds the Interconnection Limit; and (ii) Renewable Energy is subject to Curtailment through GPC's AGC Setpoint signals as set forth in this PPA.

4.1.8. No Sale of Capacity, Energy, or Ancillary Services to a Third Party. Seller must not sell any of the capacity, energy, energy storage services, or Ancillary Services associated with the ESS or the Renewable Resource to any Person other than GPC, including the sale of any energy not dispatched by GPC or the sale of any Renewable Energy Curtailed by GPC under Section 11.2 (*Limit on Delivered Energy; Curtailment of Energy from Renewable Resource*).

4.2 Calculation of Monthly Capacity Payments. Subject to the terms of this PPA, GPC will pay Seller a Monthly Capacity Payment calculated in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown)*, subject to the Monthly Capacity Reduction in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*). Other than the Monthly Capacity Payments, GPC will not owe Seller any payment or other compensation for the Facility's capacity, energy storage services, or Ancillary Services.

4.2.1. No Seller Entitlement to Payment or Other Compensation. GPC will not owe Seller any payment or other compensation for energy losses associated with Round-Trip Efficiency of the ESS or for any energy received or Curtailed by GPC in accordance with Section 11.2 (*Limit on Delivered Energy; Curtailment of Energy from Renewable Resource*). Additionally, except the Monthly Capacity Payment, GPC will not owe Seller any payment or other compensation for Renewable Energy generated by the Renewable Resource and delivered directly to the POI or the ESS.

PART 5 BILLING AND COLLECTIONS

5.1 Capacity Billing and Payment.

5.1.1. Seller Invoices. Subject to Section 5.2 (*Billing Disputes and Final Accounting*), by no later than the 10th Day of each Month (commencing with the first Month after the Delivery Commencement Date), Seller must send to GPC an invoice stating the Monthly Capacity Payment, including any Monthly Capacity Reduction, for the immediately preceding Month ("**Monthly Invoice**") under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics*

and Requirements). If the 10th Day is not a Business Day, Seller must send to GPC the applicable Monthly Invoice by no later than the Business Day succeeding the 10th Day. The invoice must also specify any other payment required to be made by either Party in accordance with this PPA.

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

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

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

5.2 Billing Disputes and Final Accounting.

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

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

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

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

Renewable Energy Performance True-up except to the extent the applicable reduction or true-up was not correctly calculated or invoiced in accordance with this PPA.

5.4 Billing and Payment Records. Each Party will, until the end of one year after its receipt of any invoice, make available to the other Party, and each Party may audit, the books and records of the other Party as are necessary for the Party to verify the calculation of the Monthly Capacity Payments, any Monthly Capacity Reduction or Annual Renewable Energy True-up, and any true-up of the Monthly Capacity Payment for the final Month of an Annual Period under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*), and any other invoice, charge, or payment demand made concerning this PPA.

PART 6 PERFORMANCE SECURITY

6.1 Performance Security. Simultaneous with the execution of this PPA, if Seller is not Creditworthy, Seller must deliver to GPC Eligible Collateral in an amount equal to the Performance Security required by Exhibit A-2 (*Performance Security and Liquidated Damages*). Seller must maintain Performance Security throughout the Term and adjust its Eligible Collateral in accordance with Exhibit A-2. If: (i) any portion of the Eligible Collateral that GPC is then holding is in the form of a Seller Guaranty, and (ii) a Material Adverse Change occurs regarding Seller Guarantor, then by no later than three Banking Days after the Material Adverse Change occurs, Seller must deliver to GPC replacement Eligible Collateral to replace the Seller Guaranty: (a) in a form other than a Seller Guaranty; or (b) in the form of a Seller Guaranty from a different Seller Guarantor that is Creditworthy.

6.2 Replacement Collateral; Substituted Collateral; Release of Collateral.

6.2.1. Replacement Collateral. To the extent that any Performance Security supplement or replacement is required to maintain compliance with Section 6.1 (*Performance Security*), Seller must deliver to GPC the replacement Seller Performance Security by no later than 90 Days before the earlier to occur of: (i) the date when an increase or decrease in Eligible Collateral is required in accordance with Exhibit A-2 (*Performance Security and Liquidated Damages*); or (ii) the date when the existing Eligible Collateral will expire. However, the increase or decrease, as applicable, in Eligible Collateral will not become effective until the applicable date indicated in Exhibit A-2. If the U.S. commercial bank or a U.S. branch of a foreign bank that issued the Letter of Credit fails to maintain: (a) total assets of at least ten billion dollars ($10,000,000,000); or (b) a general long-term senior unsecured debt rating required for a Letter of Credit under this PPA, Seller must deliver to GPC a replacement Letter of Credit by no later than 10 Banking Days. If Seller does not comply with the preceding sentence, GPC has the right, without limitation to its other remedies under this PPA or at law, to draw the full amount on the existing Eligible Collateral prior to its expiration date or take further action to protect its interests under this PPA.

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

6.3 Draws; Replenishment. In addition to the draws permitted by Section 6.2.1 (*Replacement Collateral*) and Section 7.4 (*Grid Cost Improvements*), GPC may draw upon the Eligible Collateral provided by Seller to recover any damages to which GPC is entitled under this PPA (including damages following the occurrence of a Seller Event of Default) or any other unpaid amount owed by Seller under this PPA,

including to recover delay liquidated damages under Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*), damages arising from a Seller Event of Default, or termination damages arising from GPC's termination of this PPA for a Seller Event of Default. If GPC draws upon the Eligible Collateral, then, except in the circumstance when GPC establishes an Early Termination Date under Section 16.3.1 (*Remedies for Event of Default*) or this PPA otherwise terminates, Seller, within three Business Days, must replenish the Eligible Collateral to the full amount required by Section 6.1 (*Performance Security*) and Section 7.4.

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

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

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

7.1 Design and Construction of the Facility.

7.1.1. Facility Design. Seller must design and construct the ESS and the Renewable Resource in accordance with the applicable specifications set forth in Exhibit F (*Facility Operating and Dispatching Requirements*) and Exhibit I (*Requirements for PPA Facility*). Despite any other PPA provision, the actual capacity of the Renewable Resource must be at least 80 MW. The Facility must be designed to: (i) ensure the Renewable Resource is capable of fully charging the ESS; and (ii) allow for Grid Charging. The Storage Device Design Capacity may be less than the Renewable Resource Capacity, but the Renewable Resource must meet the requirements of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) Section 2.6 (*Annual Renewable Energy Performance True-up*). Seller must design the Facility and otherwise complete the Project in accordance with Prudent Industry Practices and applicable law. The Facility must comply with applicable EOP-012-1 (Extreme Cold Weather Preparedness and Operations) requirements, including Requirements R1 (applicable to New Facilities), R2 (applicable to Existing Facilities), R3, R4, R5, R6, and R7. EOP-012-1 is published by NERC and available at: https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-012-1.pdf.

7.1.2. ESS Design and Specifications. The ESS must be designed to deliver the Contracted Capacity (MW) over the Storage Device Discharge Duration (SDDD), delivering the entire Storage Device Operating Energy (SDOE) (MWh), as measured at the POI. The ESS must also be capable of charging at the Maximum Rate of Charge throughout the Term. Seller must maintain these energy storage capabilities throughout the Term. Seller must design, build, and maintain the ESS with adequate margins, including any future augmentation, to demonstrate and perform to these specifications accounting for any RTE losses, conversion losses, storage losses, efficiency degradation, or any other possible decrease in performance so that the Performance Guarantees are met over the Term. Each Month, GPC will assess the applicable Performance Metrics detailed in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) and calculate any Monthly Capacity Reduction.

7.1.3. Facility Control System Design and Capabilities. Seller must design the control and data systems of each of the Renewable Resource and the ESS to provide: (i) all real-time AGC Setpoint signals and data detailed in Exhibit G (*AGC and Facility Minimum Data Requirements*); (ii) any additional information that GPC requires to manage GPC's dispatch of the Facility's energy and capacity and to track and measure ESS performance; and (iii) sufficient control and coordination of both the Renewable Resource and ESS to not exceed the Interconnection Limit at the POI when both resources are delivering simultaneously. The ESS Operating High Limit will be updated in real time based on the Renewable Resource PHL and Interconnection Limit (i.e. available discharge

from ESS) to limit ESS delivery, if applicable. The control system of the Facility will receive and send, every six seconds, AGC Setpoint signals to allow GPC to direct the energy output of the Renewable Resource and the energy input/output of the ESS. Seller must coordinate its control system design details with GPC, as GPC Representatives may request, throughout Project scoping, design, procurement, and construction to ensure that PPA requirements are met.

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

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

(i) The Renewable Resource is capable of producing and delivering, on a reliable basis, Renewable Energy to: (a) fully charge the ESS; and (b) meet the AGC Performance Requirements, including any AGC testing requirements;

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

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

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

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

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

7.1.6. Commercial Operation Certificate. When Seller believes the Facility achieved the Commercial Operation requirements set forth in Section 7.1.5 (*Commercial Operation*), Seller must complete and submit to GPC the Commercial Operation Completion Certificate provided in Exhibit K (*Form of Commercial Operation Completion Certificate*). Upon receipt of the Commercial Operation Completion Certificate, GPC will have the right, but not the obligation, to inspect the Facility or review inspection-related information before acceptance. Within 30 Days after receipt, GPC will review the Commercial Operation Completion Certificate and notify Seller whether GPC agrees that Commercial Operation was achieved. If GPC agrees that Commercial Operation was achieved, the date that Seller submitted the Commercial Operation Completion Certificate will be the Commercial Operation Date. However, if GPC determines that the Facility has not actually achieved Commercial Operation, GPC will notify Seller of any issue and deficiency, and Seller must promptly resolve any issue or deficiency and then resubmit the Commercial Operation Completion Certificate. This process will repeat until Commercial Operation (as determined by GPC) is achieved. Seller will be liable for Delay Damages under Section 7.3 (*Failure to Achieve Commercial*

Operation by RCOD) if GPC determines that Seller did not timely achieve Commercial Operation. Subject to Section 7.3.4 (*RCOD Exceptions*), if applicable, Seller may be entitled to an RCOD extension if: (i) the Facility interconnects to the Southern Company Transmission System; and (ii) the Interconnection Provider is solely responsible for a delay in the construction of Interconnection Facilities.

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

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

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

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

7.3 Failure to Achieve Commercial Operation by RCOD.

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

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

7.3.3. Seller Payment of Delay Liquidated Damages; Pre-COD Termination Damages. Seller must pay GPC, on a Monthly basis by no later than 10 Days after the end of the applicable Month, delay liquidated damages owed under this Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*). In accordance with Section 6.3 (*Draws; Replenishment*): (i) GPC may draw upon the Performance Security to recover delay liquidated damages owed under this Section 7.3; and (ii)

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

7.3.4. RCOD Exceptions. If Seller's failure to achieve Commercial Operation by the RCOD is solely caused by: (i) an FME under Section 15.3 (*No Breach or Liability*); or (ii) if one of the Southern Companies is the Interconnection Provider, a delay in the construction by Interconnection Provider of the Interconnection Facilities, so long as Seller has complied with Section 8.1.3 (*Interconnection Projected Completion Date*) and the delay is not caused by any action or inaction on the part of Seller, the RCOD will be extended to the extent the Project's critical path is impacted. In the case of (ii), if Seller has not met all IA obligations in a timely manner, Seller's failure to achieve Commercial Operation by the RCOD will not be excused, the RCOD will not be extended, and, while the Interconnection Provider completes construction of the Interconnection Facilities, Seller will owe liquidated delay damages for each Day of delay after RCOD as set forth in Section 7.3.1 (*Delay Liquidated Damages*).

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

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

(i) RCOD Extension to Accommodate Start-Up and Testing. Subject to all conditions in this Section 7.3.6(i), the RCOD will be extended if: (a) the Facility is interconnecting to the Southern Company Transmission System; (b) as a sole and direct result of Interconnection Facilities construction delay, Facility start-up and testing activities are delayed and Seller is prevented from achieving Commercial Operation by the RCOD; (c) the Interconnection Provider is solely responsible under the IA for the Interconnection Facilities construction delay; and (d) Seller undertakes all commercially reasonable action to avoid, overcome, or otherwise mitigate the impact of the delay. Any RCOD extension under this Section 7.3.6(i) will be based on the demonstrable impact to the critical path of the Milestone Schedule. The RCOD will not be extended if: (I) Seller has not timely complied with Section 8.1 (*Interconnection*); or (II) the delay was caused, in whole or in part, by any action or inaction on the part of Seller or a seller Representative.

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

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

7.4 Grid Cost Improvements. [Note to Bidders: Language consistent with the Upgrade Security sections of RFP Exhibit B (*Interconnection and Delivery Requirements*) will be included in this Section 7.4.]

PART 8 INTERCONNECTION AND METERING

8.1 Interconnection.

8.1.1. Interconnection Study and Entry into IA. After the Commission certifies this PPA, Seller must enter into an IA with the Interconnection Provider by no later than 30 Days after the Interconnection Provider presents Seller with the IA for execution, unless GPC agrees otherwise in writing. Seller must timely comply with all obligations under the Interconnection Study Agreement and IA, including timely submission of required data and documentation and timely payment, as applicable. Contracted Capacity must not exceed the Interconnection Limit. The IA must be maintained in effect throughout the Term. Seller must promptly provide to GPC a copy of, and any amendment to, the IA in accordance with Section 20.4 (*Notice*).

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

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

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

8.2 Metering and Telemetry.

8.2.1. Metering System. Seller must ensure the Metering System is designed, located, constructed, installed, owned, operated, and maintained in accordance with the IA and Prudent Industry Practices to measure and record the energy delivered to the POI from the Facility to determine: (i) the RECs generated by the Facility; (ii) ESS capacity; and (iii) the measured availability of the ESS in meeting GPC's AGC Setpoint signals. The Metering System must continuously and separately measure ESS and Renewable Resource input/output and report both values at all times. The Metering System will be of a mutually acceptable accuracy range and type, including audit capabilities. Seller and Seller's Representatives must not adjust the Metering System without GPC's written consent. GPC, at its own cost, may install additional meters or other such facilities, equipment, or devices on as GPC deems necessary or appropriate to monitor the

measurements of the Metering System. Seller must install, at its own expense, all needed metering support equipment on its side of the POI to facilitate GPC's dispatch of the ESS or Renewable Resource via AGC Setpoint signals. Seller must also, at Seller's expense, install or upgrade the Facility control systems to allow GPC's AGC dispatch of the ESS or Renewable Resource. GPC will reasonably establish the telemetering equipment and systems that are necessary to dispatch the Facility from the Dispatch Center, and Seller, at Seller's expense, must install or cause the installation of such telemetering equipment. Seller must deliver to GPC all the telemetered data and any other data GPC requests.

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

8.2.3. Adjustments. If the Metering System fails to register, if any seal securing the Metering System is found broken, or if a measurement made by a metering device is found upon testing to vary by more than 0.5% from the measurement made by the standard meter used in the test, an adjustment will be made correcting all measurements of energy made by the Metering System during the Adjustment Period. "**Adjustment Period**" means either: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if the actual period cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the Metering System to the date the failure is discovered or the test is made. If the Parties are unable to agree on the adjustment to be applied to the Adjustment Period, the adjustment will be determined: (a) by correcting the error if the percentage of error is ascertainable by calibration, test, or mathematical calculation; or (b) if not so ascertainable, by estimating based on deliveries made under similar conditions during the period since the last test. Within 30 Days after the determination of any adjustment, GPC will pay Seller any additional amount then due or GPC will be entitled to a credit against any subsequent Monthly Capacity Payment.

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

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

PART 9 ESS CAPACITY AND PERFORMANCE TESTS

9.1 Tested Storage Capacity and Contracted Capacity. Prior to Commercial Operation, Seller will conduct, at its expense, Performance Testing as detailed in Section 1.2 (*Tested Storage Capacity; Performance Testing*) of Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*). Seller must notify GPC Representatives in advance of Seller's Performance Testing and allow GPC to witness and participate in the Performance Testing as GPC desires. Upon Seller's completion of any Performance Test, Seller must promptly provide to GPC a complete written report, in accordance with Exhibit E (*Performance Testing Procedures*), of the Performance Test, certified by a responsible officer of Seller, for GPC's review and verification. Following the Delivery Commencement Date, Seller must cooperate with GPC's request for information concerning Facility performance that GPC may reasonably request from time to time.

9.2 Disputes Concerning Capacity Tests. If the Parties disagree regarding the Performance Test results, the Parties will resolve the dispute in accordance with Part 19.2 (*Expert Arbitration*). If the dispute is not resolved by the first Day of any Annual Period, the Tested Storage Capacity from the most recent Performance Test will be used by GPC for the Monthly Capacity Fee calculation until the dispute is resolved. After the dispute is resolved, an adjustment may be made to Monthly Capacity Payments made regarding the Annual Period to account for any difference between the SDDC and the Tested Storage Capacity from the most recent Performance Test.

PART 10 OPERATION AND MAINTENANCE

10.1 Operation and Maintenance.

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

10.1.2. Written Operating Procedures. Seller and GPC will mutually develop and agree upon written Operating Procedures no later than six Months before the Delivery Commencement Date. Topics covered will include: (i) Performance Tests procedures, deliveries of energy during start-up, and testing of the Facility; (ii) the method of Day-to-Day communications; (iii) clearance and switching practices; (iv) daily capacity availability and energy reports; (v) Facility operations log; (vi) reactive power output; (vii) Technical Limits regarding Facility operation (including maximum ramp rates, (and other limits specified in Exhibit F (*Facility Operating and Dispatching Requirements*)); (viii) ramp rates for the delivery of power to the POI; (ix) coordination of maintenance scheduling; (x) designation of confidential information; and (xi) any other matters as the Operating Representatives agree are appropriate. The Operating Representatives will be responsible for modifying, from time to time, these Operating Procedures in writing to reflect agreed changes. In the event of inconsistency or conflict between the Operating Procedures and specific terms of this PPA, the specific terms of this PPA will take precedence.

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

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

10.2 Maintenance Scheduling.

10.2.1. Maintenance Schedule Reporting and Approvals. Commencing in the year before the year of the Delivery Commencement Date, and continuing throughout the Term, Seller must submit to GPC before September 1 Maintenance Schedules covering the next four Annual Periods or the number of Annual Periods remaining in the Term, whichever is less. Seller must not schedule any maintenance of the Facility during any On Peak Season of any Annual Period that would decrease the ESS (i) capacity output below the SDDC; (ii) energy storage capability below the SDOE; or (iii) rate of charge capability below the ROC, without the prior written consent of GPC. The proposed Maintenance Schedules are subject to the approval of GPC, which approval GPC will not unreasonably withhold or delay. GPC will have 30 Days to review the proposed Maintenance Schedules and may approve or reject (in whole or in part) the Maintenance Schedules. If any portion of a Maintenance Schedule is rejected by GPC, Seller must resubmit a revised Maintenance Schedule to GPC within 30 Days of GPC's rejection and GPC and Seller agree to use best efforts to promptly develop Maintenance Schedules that are mutually acceptable, considering the burdens that GPC's changes impose on Seller compared to the burdens avoided by GPC because of such changes. Any dispute concerning this Section 10.2.1 will be resolved in accordance with Part 19 (*Dispute Resolution*) applicable to Maintenance Schedule disputes. The outages included in the final, approved Maintenance Schedule for the current Annual Period will be the Scheduled Outages for that Annual Period. GPC will exclude Scheduled Outages from its calculation of Performance Metrics under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*).

10.2.2. Maintenance Outages. In addition to Scheduled Outages, Seller may request Maintenance Outages during any Annual Period. Seller must notify GPC (in writing, electronically, or orally) of each Maintenance Outage no less than 24 Hours in advance and at least one Business Day in advance of Seller's proposed commencement of the Maintenance Outage. In Seller's request, Seller must identify the equipment and the percentage of SDDC and SDOE that will not be available for delivery at the POI and the proposed start time and duration of the Maintenance Outage. GPC will respond to Seller's request as soon as reasonably practicable. Seller must not take a Maintenance Outage without GPC's prior written or telephonic consent, and GPC' will not unreasonably withhold, condition, or delay its consent. Despite the preceding sentence, each Party acknowledges that it will be reasonable for GPC to deny any request for a Maintenance Outage if GPC reasonably believes that it may need the ESS during the requested time period. GPC will have the right to revoke its consent to a Maintenance Outage if any changed condition requires the availability of the ESS. If GPC requests Seller to return to full Availability status all or part of that portion of the ESS that is affected by the Maintenance Outage, Seller must comply as soon as reasonably practical. GPC will not dispatch the ESS to the extent that the ESS is not capable of receiving or delivering energy as a direct result of a Scheduled Outage or a Maintenance Outage approved by GPC. GPC's calculation of Performance Metrics under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) will exclude approved Maintenance Outages.

10.2.3. Reporting of Forced Outages and Derates. Through the method required by the Operating Procedures, Seller must notify GPC promptly upon the occurrence of any Forced Outage or Forced Derate, except that Seller will not be required to notify GPC of any Forced Derate that is less than 0.5 MW or that falls within the rounding requirements specified in the Operating Procedures. As soon as practicable, but in any event not later than the beginning of the period of the Forced Outage or Forced Derate, Seller must notify GPC of: (i) the cause of the outage or derate; (ii) the amount of SDDC and SDOE affected by the outage or derate; (iii) the proposed corrective action to address the outage or derate; and (iv) Seller's reasonable estimate of the expected duration of the Forced Outage or Forced Derate and expected return to full operation.

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

10.3 Renewable Resource Outages. Seller must inform GPC of any Renewable Resource outage, as described in Exhibit F (*Facility Operating and Dispatching Requirements*). Seller may implement Renewable Resource outages in Seller's discretion, but Seller must meet its Annual Renewable Energy Forecast and will not be excused from those requirements for any outage or derate.

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

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

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

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

10.5.3. GPC's Access to Facility and PPA Records. Upon reasonable advance notice and during normal business Hours, GPC will have the right from time to time to examine at the Facility, or at a location mutually agreed to by the Parties, the records and data relating to the Facility and this PPA, including all historical test records relating to the Facility.

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

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

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

10.7 Operating Committee.

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

10.7.2. Cooperation. Each Party will cooperate in providing the Operating Representatives all information required in the performance of their duties. If the Operating Representatives are unable

to agree on any matter falling under their jurisdiction, the Operating Representatives will submit the matter to senior officers for discussion and resolution. All decisions and agreements made by the Operating Representatives or their principals must be evidenced in writing.

10.8 AGC.

10.8.1. Operation on AGC for Renewable Resource. Seller is responsible for operating the Renewable Resource and producing and delivering energy in compliance with GPC's AGC Setpoint signals as further described in Section 10.8.3 (*Setpoint Signals*). During periods when GPC does not desire to curtail Energy output from the Renewable Resource through AGC, GPC's Renewable Resource AGC Setpoint will follow either the Operating High Limit or Potential High Limit and the Renewable Resource will operate at full output. Upon Curtailment, the Renewable Resource must reduce energy output to the AGC Setpoint.

10.8.2. Operation on AGC for ESS. Seller must operate the ESS and charge or discharge in compliance with GPC's AGC Setpoint signals as further described in Section 10.8.3 (*Setpoint Signals*). During periods when the AGC Setpoint is zero MW, the ESS must be controlled so that the ESS does not discharge (e.g. is in idle state).

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

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

10.10 Potential High Limit for the Renewable Resource; Curtailed Energy. For the Renewable Resource, Seller must telemeter an accurate Potential High Limit (real time capability) at all times during operation. The Facility must include an operational automatic system for accurately estimating the Potential High Limit that will telemeter estimates of the expected Renewable Resource generation in the absence of a Curtailment. Such system will provide PHL estimates every 6-seconds at all times during which the Renewable Resource is Available, regardless of whether any AGC Setpoint signal from GPC is being received or responded to by the Facility. Such system must produce PHL estimates within an accuracy of at least +/- 5% during at least 95% of all 6-second intervals and must otherwise comply with Prudent Industry Practices.

10.10.1. PHL Estimation System. By no later than one year prior to the expected COD, Seller must submit the detailed design and expected performance of the PHL estimation system to GPC for review and approval, which approval GPC will not unreasonably withhold. GPC will provide any written comment regarding the proposed PHL estimation system design to Seller within 30 Days after receipt of the required submittal from Seller. Within 60 Days after receipt of GPC's comments, Seller must make corrections or modifications to the proposed PHL estimation system design as necessary to properly address GPC's comments, including correcting deficiencies, remedying issues, and satisfying requirements raised in GPC's comments, and will resubmit the revised proposed PHL estimation system design to GPC for review and approval. This process will be repeated on an iterative basis until Seller has developed a PHL estimation system design that is approved by GPC.

10.10.2. Testing of PHL Estimation System. By no later than 14 Days prior to the expected COD, Seller must provide to GPC a detailed analysis and verification report regarding the completed testing of the performance and accuracy of the PHL estimation system, which must demonstrate that the installed PHL estimation system is capable of satisfying the performance and accuracy requirements of Section 10.10 (*Potential High Limit for Renewable Resource; Curtailed Energy*).

10.10.3. Access to Data Used for PHL Estimates. Seller must provide to GPC real-time access to all modeling data, meteorological data, inverter data, and any other data used in producing the PHL estimates provided by Seller to GPC. GPC will have the right to retain, review, and reproduce all modeling and analysis used by Seller to estimate PHL, with such support from Seller as GPC may reasonably request.

10.10.4. PHL Estimates for Curtailment. For each Month during which any Curtailment has occurred, the Operating Committee will use the PHL estimates to calculate the amount of Curtailed Renewable Energy for such Month. As set forth in Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Curtailed Renewable Energy caused by GPC's discretionary AGC Setpoint signals will be included in Annual Renewable Energy Available for the purpose of calculating the Annual Renewable Energy Performance True-up. If the Parties fail to agree on the amount of Curtailed Renewable Energy, the Parties will submit the dispute for resolution in accordance with Part 19 (*Dispute Resolution*).

10.10.5. Validating PHL Estimates. The Operating Committee will develop mutually agreed upon (such agreement by a Party not to be unreasonably withheld) methods for validating the estimated PHL and improving the accuracy of the estimated PHL, which methods may include test curtailments, inverter performance analysis, or other equipment as appropriate for the Facility. A primary source of validation data to monitor the PHL estimation system's accuracy and error will be the recorded PHL estimates compared to the Renewable Resource's actual energy output in all six-second periods outside of a Curtailment. The Operating Committee will review and monitor PHL estimate errors to identify any bias in the PHL estimates. If any bias is identified in the PHL estimates, the calculation of the amount of Curtailed energy will be adjusted by the PPA Operating Committee to correct for such bias. If the Parties fail to agree on any adjustment to the calculation of Curtailed Energy to correct for PHL estimate bias, the Parties will submit the dispute for resolution in accordance with Part 19 (*Dispute Resolution*).

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

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

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

10.13.1. Sourcing Restrictions. Programmable electronic components of the: (i) Battery Management System (BMS); (ii) BESS Controller; and (iii) Site Controller (including controls, hardware and software) must not be sourced from or manufactured by Foreign Entities of Concern ("FEOC") as defined in 42 U.S.C. § 18741(5) and subsequently interpreted in "Interpretation of Foreign Entity of Concern," 89 Fed. Reg. 37085 (May 6, 2024) or sourced from or manufactured in one of the following countries: China, Russia, North Korea, Saudi Arabia, Serbia, Algeria, Venezuela, Iran, Iraq, Belarus, Kazakhstan, Kyrgyzstan, Uzbekistan, Syria, Lebanon, South Sudan, Pakistan, Cuba, or the Netherlands. For purposes of this provision, the terms Battery Management System, BESS Controller, and Site Controller are defined as follows:

(i) Battery Management System (BMS): A control system used to protect the battery and to provide key parameters, such as state of charge, battery health, and temperature.

(ii) BESS Controller: A controller used to manage multiple stacks or arrays of batteries. This controller manages the balancing of the batteries.

(iii) Site Controller: A control system used to manage one or more sources (Photovoltaic solar, batteries, etc.) to achieve facility level control.

PART 11 ESS; RENEWABLE RESOURCE; GRID CHARGING

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

11.2 Limit on Delivered Energy; Curtailment of Energy from Renewable Resource. GPC, in its sole discretion, may require Seller to curtail or cease the delivery of Renewable Energy from the Renewable Resource to the POI for any reason. In such case, Seller must curtail or cease the delivery of energy from the Renewable Resource to the POI as directed by GPC.

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

PART 12 ENERGY DISPATCH

12.1 Energy Dispatch. GPC will issue dispatch instructions via six-second AGC Setpoint signals for the ESS electrical input and output committed under this PPA. If the AGC capability of the ESS is unavailable, GPC may utilize non-AGC dispatching and Seller, at Seller's expense, must use commercially reasonable efforts to re-establish AGC capability.

12.2 Coordination and Dispatch.

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

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

12.2.3. System Emergency.

(i) General System Emergency Procedure. The Parties recognize that GPC is a FERC jurisdictional entity subject to the reliability authority of NERC and that, to ensure continuous and reliable electric service, GPC operates its system in accordance with the operating criteria and guidelines of NERC. If a System Emergency is declared and AGC dispatch is not available, GPC may require Seller's personnel to operate the Facility manually, including potential start-up or shutdown situations, to maintain safe and reliable load levels and voltages on the Electric System. To the extent Seller is required, under this Section 12.2.3 (*System Emergency*), to take any action, or GPC takes any action, which will adversely affect Seller's ability to meet the Performance Metrics, including dispatch

modified in accordance with Section 12.2.3(ii) (*Cooperation During System Emergency*), Seller may be excused from meeting GPC's AGC Setpoint signals for purposes of the Performance Metrics calculations.

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

12.3 Effect of Grid Emergencies. The Parties recognize that, in accordance with the IA, Seller may be required to reduce the Facility's operational capability or take other actions during a Grid Emergency, including disconnection of the Facility from the Southern Company Transmission System, to allow mitigation of system problems and repair or maintenance of the Interconnection Facilities or the Southern Company Transmission System. To the extent Seller is required under the IA to take any action, other than instances where Seller's acts or omissions are the cause for the required actions, which will adversely affect Seller's ability to meet GPC's AGC Setpoint signals, Seller will be excused from meeting GPC's AGC Setpoint signals and, for the purposes of Performance Metrics calculations, such AGC intervals will be removed as appropriate.

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

PART 13 INSURANCE

13.1 Insurance Required of Seller. Throughout the Term, Seller must acquire and maintain in effect without interruption, at its sole cost and expense, the types and amounts of insurance coverage as are consistent with Prudent Industry Practices, but in no event less than the types and amounts described in this Part 13 (*Insurance*). All insurance must be with insurers: (i) holding an AM Best rating of at least A- VII or equivalent; (ii) whose financial condition and policy forms are acceptable to GPC (Seller must not unreasonably withhold requested documents); and (iii) authorized to transact insurance in the state where the Facility is located.

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

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

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

13.4.1. Commercial General Liability Insurance. Commercial General Liability insurance providing the following coverage, which can be exceeded by Seller and may be met through a

combination of primary insurance and following form excess or umbrella insurance, so long as the combined limits meet requirements of this PPA:

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

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

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

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

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

13.5.3. Pollution Liability. Coverage for bodily injury, property damage, including clean-up costs and defense costs resulting from sudden, accidental, or gradual pollution conditions, including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, hydrocarbons, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water will be maintained, with limits not less than five million dollars ($5,000,000.00) per occurrence or claim, except that, if Seller uses a "claims-made" policy, the policy must maintain continuous coverage in effect for at least five years beyond termination of this PPA through continuous renewal of the original policy or by purchasing extended discovery period retroactive insurance dated back to the Effective Date of this PPA. Seller may meet the requirements under this Section 13.5.3 (*Pollution Liability*) through sudden or accidental pollution coverage as part of the insurance required under Section 13.4.1 (*Commercial General Liability Insurance*).

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

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

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

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

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

PART 14 RISK AND CLAIMS

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

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

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

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

PART 15 FORCE MAJEURE

15.1 Definition of Force Majeure Event. For purposes of this PPA, a "**Force Majeure Event (FME)**" is an occurrence, nonoccurrence, or set of circumstances that: (i) first occurs after the Effective Date; (ii) prevents a Party, in whole or in part, from performing any PPA obligation or satisfying any PPA condition; (iii) is beyond the reasonable control of the Party claiming FME; (iv) is not reasonably foreseeable; and (v) is not caused by the Party's negligence, inaction, lack of due diligence, PPA breach, or failure to follow Prudent Industry Practices.

15.2 Force Majeure Exclusions. FME excludes: (i) the inability to meet an applicable law or a change in an applicable law; (ii) a Site-specific strike, walkout, lockout, or other labor dispute at the Facility; (iii) any inability by GPC to receive energy at the POI, provided the inability is not caused by Seller's action or

inaction; (iv) ambient temperature or humidity at the Site; (v) failure or inability to obtain or retain sufficient funds for any reason, including funds from a Governmental Authority, or Seller's loss of or inability to obtain or retain any tax credit or other incentive regarding any portion of the Facility; (vi) any event, including a change in any applicable law or accounting standard, that requires GPC to consolidate Seller or any Seller Affiliate or permitted assign as a VIE in GPC's financial statements; (vii) any inability to obtain or maintain, or delay in obtaining, any permit, approval, or other Consent required from a Governmental Authority; (viii) equipment failure or damage; (ix) a change in any market condition that affects the cost or availability of equipment, materials, supplies, or services, including the cost of power from resources other than the Facility; (x) any act or inaction of a Party's contractor, supplier, or vendor; (xi) Seller's inability to arrange or maintain interconnection service for deliveries to the POI; (xii) the interruption, curtailment, or unavailability of service for the transmission of Discharging Energy from the Facility for any reason; or (xiii) any directive from the Interconnection Provider to curtail deliveries of Discharging Energy from the Facility or disconnect the Facility from the Electric System. Despite the preceding sentence, a Party claiming FME may be excused from PPA performance if: (a) a separate event that otherwise constitutes an FME directly and independently causes a circumstance described in subparts (vii) through (xiii); and (b) the Party satisfies all other conditions of this Part 15 (*Force Majeure*).

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

15.3.1. Burden of Proof and Supporting Documentation. The burden of proof as to whether an FME has occurred and as to the impact of an FME will be upon the affected Party. If the affected Party requests that its performance be excused because of an FME, then the affected Party must support its request with documentation demonstrating: (i) the existence of the FME; (ii) efforts by the affected Party to overcome or mitigate the effect of the FME; and (iii) following the conclusion of the FME, an analysis of the number of Days the FME delayed or otherwise prevented the performance of the affected Party's obligations or satisfaction of any condition of this PPA and, if the FME occurred after COD, information reasonably required to determine the period of time the Facility, in whole or in part, is expected to be or was Unavailable because of FME for purposes of adjusting GPC's calculation of the Performance Metrics. The affected Party must provide the required documentation by no later than five Business Days after the date the FME concludes.

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

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

15.5 Notice of FME; Updates. Following the occurrence of an FME, and as a condition to relief under Section 15.6 (*Requirements for Relief*), the affected Party will give the other Party notice of the FME, followed by written notice if the first notice is not written, as promptly as possible after the Party becomes aware of the FME, but in no event later than 10 Business Days after the affected party knew of should have known of the occurrence of the FME. The notice must describe the particulars of the FME, including an estimate of the anticipated duration and effect of the FME (if reasonably estimable) upon the performance of the Party's obligations or satisfaction of any conditions under this PPA (including, if Seller is the affected

Party, Seller must provide GPC with information reasonably required to determine the reduction of the ESS operational capability), and discussing any actions being taken to avoid or minimize the effect of the FME. The affected Party will have a continuing obligation to deliver to the other Party regular updated reports and any additional documentation and analysis supporting its claim regarding an FME.

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

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

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

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

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

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

15.7 Extended FME.

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

15.7.2. Monthly Status Reports and Updates to FME Remedy Plan. While an FME Remedy Plan is in effect, the affected Party must provide the other Party with Monthly status reports regarding the implementation of the FME Remedy Plan, any other measures to remedy the FME, any changes to the FME Remedy Plan, and the expected remaining duration of the Party's inability to perform its obligations, and any additional relevant information as may be reasonably requested by the other Party. The affected Party must modify the FME Remedy Plan if and as needed to achieve the objective of resuming full performance of the suspended obligations under this PPA as soon as reasonably practicable.

15.7.3. Early Termination Resulting from an Extended FME. The Party not prevented from performing its obligations due to the FME may at any time terminate this PPA effective upon 10 Days prior written notice to the affected Party if: (i) the affected Party does not or cannot provide an FME Remedy Plan as required by this Section 15.7 (Extended FME); (ii) the affected Party does not or

cannot carry out the FME Remedy Plan in a method reasonably designed to achieve the objective of resuming full performance of the suspended obligations under this PPA as soon as reasonably practicable; or (iii) the affected Party remains unable to perform the suspended PPA obligations 12 Months following the date of initial suspension of performance resulting from the FME. For purposes of subsection (iii) of this Section 15.7.3, the 12-Month period need not be continuous only if each period of suspension of performance comprising the 12-Month period is the result of a common cause such that, if the cause had been cured following the first suspension of performance, the additional suspensions of performance would not have occurred.

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

PART 16 DEFAULT AND REMEDIES

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

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

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

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

16.1.4. Failure to Comply with Performance Security Requirements. (i) Seller fails to comply or cause compliance with: (a) Performance Security requirements of Section 6.1 (*Performance Security*); or (b) the Upgrade Security requirements of Section 7.4 (*Grid Cost Improvements*); or (ii) Seller Guarantor breaches any of its obligations under the Seller Guaranty or if any representation or warranty Seller Guarantor made in the Seller Guaranty is incorrect in any material respect when made, unless Seller cures any of the preceding by the end of the fifth Business Day following Seller's receipt of GPC's written notice of a failure under this Section 16.1.4.

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

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

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

16.1.8. Storage Performance Metric Achieved Below .75. The Storage Performance Metric Achieved, as calculated by GPC in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*), is below .75 for any three consecutive Months period; or (ii) six Months in any 12 Month period.

16.1.9. Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies. Despite any other PPA provision, the Tested Storage Capacity, determined in accordance with a Performance Test at any time after the Delivery Commencement Date, is below 70% of the Contracted Capacity and Seller fails to: (i) submit to GPC, within 10 Days after determination by the Performance Test of the inadequate Tested Storage Capacity, a written cure plan reasonably acceptable to GPC for the inadequate Tested Storage Capacity; and (ii) cure the inadequate Tested Capacity within the Cure Period, except that the Cure Period may be extended in accordance with Section 16.1.9(i) (*Cure Period Extension*). GPC will have the right to declare an Event of Default if Seller fails to: (a) establish the cure plan within the required 10-Day period or, if applicable, establish the revised cure plan within the required 15-Day period under Section 16.1.9(i), or (b) diligently implement the cure plan (including implementation of such actions as GPC may reasonably request), or (c) cure the inadequate Tested Storage Capacity within the Cure Period (as the Cure Period may be extended under Section 16.1.9(i)) as set forth in Section 16.1.9(ii) (*Requirements to Cure Inadequate Tested Storage Capacity*).

(i) Cure Period Extension. If Seller establishes a cure plan in accordance with Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity*; *Cure; Remedies*) but requires a Cure Period of more than 120 Days to cure the inadequate Tested Storage Capacity, then the Cure Period will be extended for a reasonable additional period of time, which extension will not in any case exceed 60 Days, so long as, by no later than 15 Days before the expiration of the 120-Day Cure Period, Seller provides to GPC: (a) a revised cure plan setting forth a reasonable extension of the Cure Period, not to exceed 60 Days, which revised cure plan and extension must be reasonably acceptable to GPC, and (b) a written certification reasonably acceptable to GPC confirming that in order for Seller to cure the inadequate Tested Storage Capacity Seller must be afforded the requested additional period of time. The total duration of the Cure Period, as extended, must not exceed 180 Days.

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

(iii) GPC Election. Despite Section 16.1.9, whenever a Performance Test demonstrates a Tested Storage Capacity below 70% of the Contracted Capacity and Seller fails to cure the inadequate Tested Storage Capacity as required by Section 16.1.9(ii), GPC will have the unilateral right to elect to require and receive buydown liquidated damages as specified in Section 1.3.4 of Exhibit B (*Capacity; Capacity Payments and Payment Reductions;*

Buydown) in lieu of terminating the PPA. To elect this remedy, GPC must notify Seller in writing of this election and must waive its right to declare a Seller Event of Default under Section 16.1.9 with respect to the specific event of inadequate Tested Storage Capacity. GPC's waiver is limited to the specific event of inadequate Tested Storage Capacity and does not waive any additional event.

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

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

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

16.1.13. Renewable Resource Capacity. The capacity of the Renewable Resource is not at least 80 MW.

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

16.1.15. Breach of Covenant. Any failure of any covenant made by Seller in Section 2.1 (Seller Representations, Warranties, and Covenants), unless Seller promptly commences and diligently pursues action and cures the failure by no later than 30 Days after notice of the failure has been given to Seller by GPC (unless the cure is not capable of being effected within the 30-Day period in which case Seller must submit a cure plan before the end of the 30-Day period outlining steps to assure GPC that the failure will be cured, which cure plan will be subject to GPC's approval, the approval not to be unreasonably withheld by GPC, but in no event will the total cure period exceed 180 Days) and the cure removes any adverse effect on GPC of the failure of such covenant. However, no Event of Default by Seller will occur in accordance with this Section 16.1.15 unless GPC cooperates with Seller during the cure period and, if applicable, takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to bring about a determination by GPC and its independent auditor that Seller does not constitute a VIE as because of this PPA.

16.1.16. VIE Consolidation. GPC is required by any applicable law or any accounting standard, including those implemented or administered by FASB, to consolidate Seller or any of its Affiliates or permitted assigns as a VIE in GPC's or any of GPC's Affiliates' financial statements and the condition continues for a period of 30 Days after written notice from GPC unless the cure is not capable of being effected within the 30-Day period, in which case Seller will have an additional 30-Day period in which to commence the cure and then diligently pursues the cure and completes the cure within 60 Days. GPC may seek remedies in accordance with Section 16.3 (*Remedies*) for a Seller Event of Default caused under this Section 16.1.16. However, upon termination of this PPA, if Seller can clearly demonstrate that the Seller Event of Default was not caused by any direct or indirect action by Seller, the Seller will have no further liability or obligation to GPC except for any obligation arising prior to the date of the termination. However, no Event of Default by Seller will occur under this Section 16.1.16 regarding: (i) Section 2.1.8 (*VIE Certification*) if Seller cooperates with GPC during the cure period and Seller takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to bring about a determination by GPC and its independent auditor that Seller does not constitute a VIE in GPC's or any of its Affiliates' financial statements for which GPC is the Primary Beneficiary as a result of this PPA; or (b) Section 2.1.14 (*Environmental Compliance Certification*) if GPC determines in its sole discretion, that the incorrect

representation, warranty, or covenant is not material, Seller cooperates with GPC during the cure period, and Seller takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to correct the immaterial representation, warranty, or covenant to GPC's satisfaction. Despite the preceding subpart (i), if GPC becomes a Primary Beneficiary by no fault of Seller and a cure cannot be effected within the cure period, it will not be an Event of Default, but GPC may terminate this PPA and Seller will not have any further liability to GPC pursuant to this PPA.

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

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

16.2.1. GPC Payment Default. GPC fails to pay Seller any undisputed amount payable by GPC to Seller in accordance with this PPA for 15 Business Days after the payment became due, and GPC fails to cure the failure to pay within 15 Days after GPC receives Seller's written demand for payment.

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

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

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

16.2.5. Voluntary Bankruptcy, Insolvency, or Reorganization. GPC: (i) commences a voluntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization, or other similar law or any other case or proceeding to be adjudicated bankrupt or insolvent; (ii) consents to the entry of a decree or order for relief in respect of GPC in any involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization, or other similar law, or to the commencement of any bankruptcy or insolvency case or proceeding against it; (iii) files any petition, answer, or consent seeking reorganization or similar relief under any applicable Federal or state law, which, if granted would have the effect of relieving GPC of any of its obligations;

(iv) consents to the filing of any petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of GPC or of any substantial part of its property; (v) makes an assignment for the benefit of creditors; (vi) admits in writing its inability to generally pay its debts as they become due; or (vii) takes any action in furtherance of any of the foregoing.

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

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

16.3 Remedies.

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

16.3.2. Gains, Losses, Costs, or Damages. If an Early Termination Date has been established and Non-Defaulting Party has not successfully pursued an action for specific performance or is not excused from the payment of damages under Section 16.1.16 (*VIE Consolidation*), Non-Defaulting Party will in good faith calculate its Gains, Losses, or Costs resulting from the PPA termination, aggregate into a single net amount Gains, Losses, or Costs, and then notify Defaulting Party. If Non-Defaulting Party's aggregate Losses and Costs exceed Non-Defaulting Party's aggregate Gains, Defaulting Party will, unless Defaulting Party disagrees with the calculation, within 15 Business Days after receipt of such notice, pay to Non-Defaulting Party the net amount ("**Termination Payment**"). The Termination Payment will bear interest at the Interest Rate from the Early Termination Date until paid to Non-Defaulting Party. If Non-Defaulting Party's aggregate Gains exceed aggregate Losses and Costs, if any, resulting from the PPA termination, Non-Defaulting Party may retain the Gains. If Defaulting Party disagrees with the calculation of the Termination Payment, the issue will be resolved in accordance with Part 19 (*Dispute Resolution*) provisions applicable to Termination Payment disputes, and the resulting Termination Payment will be due by no later than three Business Days after the award. Despite any provision in this PPA, for any GPC PPA termination for a Seller Event of Default under Section 16.1.12 (*Abandonment or Failure to Achieve RCOD*), rather than the application of a calculation of Gains, Losses, or Costs resulting from the PPA termination, the Termination Payment will be liquidated damages equal to the applicable amount shown in Exhibit A-2 (*Performance Security and Liquidated Damages*), prorated based on the effective date of the termination, and Seller must pay to GPC all other damages specified in Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*).

16.3.3. Determining Gains, Losses, and Costs. Gains, Losses, or Costs will be determined by comparing the cost of the capacity and energy that would be available for the remainder of the Term

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

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

16.5 Limitation of Remedies, Liability, and Damages. Each Party confirms that the express remedies and measures of damages provided in this PPA satisfy the essential purpose of this PPA for breach of any provision for which an express remedy or measure of damages is provided, in which event the express remedy or measure of damages will be the exclusive remedy, subject to Section 19.6 (*Injunctive Relief*) regarding injunctive relief. Except to the extent expressly provided in Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*), where an express remedy or measure of damage is provided, the Party's liability will be limited as set forth in the provision and all other remedies or damages at law or in equity are waived. However, if no remedy or measure of damages is expressly provided in this PPA, and subject to Section 19.6, a Party's liability will be limited to direct actual damages only. The direct actual damages will be the exclusive remedy and all other remedies or damages at law or in equity are waived. The Parties explicitly agree and intend that Section 7.3.1 (*Delay Liquidated Damages*) , Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), and Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) will be fully enforceable by any court exercising jurisdiction over any dispute between the Parties arising under this PPA. Each Party irrevocably waives any defense available to it under applicable law or equity relating to the enforceability of the liquidated damages provisions set forth in Section 7.3.1, Exhibit B, and Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*).

16.6 Waiver of Consequential Damages. Unless expressly provided in this PPA, neither Party nor its Affiliates will be liable for: (i) consequential, incidental, special, punitive, exemplary, treble, or indirect damages (including lost profits; loss of use, income tax benefit, data, business opportunity or anticipated savings; idled equipment costs; or increased overhead, financing, or operating costs); or (ii) other business interruption damages arising out of this PPA, any damage or delay in connection with this PPA, a Party's act or failure to act, or a Party's performance or non-

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

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

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

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

PART 17 COMPLIANCE WITH LAWS

17.1 Change of Law. "**Change of Law**" means an applicable law enacted after the Effective Date that requires Seller to install additional or different equipment at the Facility or otherwise modify the Facility in order to comply with applicable law. "**Change of Law Capital Expenditures**" means additional capital expenditures (determined in accordance with GAAP) reasonably incurred by Seller in accordance with Prudent Industry Practices for additional or different equipment installed at the Facility during the Term, or for other modifications to the Facility during the Term, as a direct result of a Change of Law and as necessary for the Facility as operated under this PPA to comply with the Change of Law during the Term. Capital expenditures will not constitute Change of Law Capital Expenditures unless GPC, using Prudent Industry Practices, would incur the same capital expenditures regarding its own facilities of the same type as the Facility as a result of the requirements of the Change of Law (taking into account differences in facility capacity, location, and the frequency and duration of facility dispatch). Change of Law Capital Expenditures will be appropriately pro-rated based on: (i) the remaining Term divided by the useful life of the applicable capital addition or modification; and (ii) the Contracted Capacity divided by the total Facility capability, if applicable. Change of Law Capital Expenditures will be net of any cost savings to Seller resulting from the capital addition or modification.

17.1.1. Notice and Periodic Updates. If Seller determines that any Change of Law Capital Expenditures will be incurred because of a Change of Law (including costs less than the Threshold Amount), Seller must notify GPC of a Change of Law by no later than six Months after the enactment of the applicable Change of Law ("**Change of Law Notice**").The Change of Law Notice must

include: (i) a discussion of the relevant Change of Law; (ii) Seller's plan to comply with the Change of Law (including the additional or different equipment at the Facility or other modification of the Facility required to comply with the Change of Law); and (iii) reasonable documentation of Seller's determination of Change of Law Capital Expenditures (or estimate of Change of Law Capital Expenditures if actual costs are not known). Seller must provide GPC with periodic updates regarding Seller's compliance plan and Change of Law Capital Expenditures. Seller must provide additional relevant information as GPC may reasonably request.

17.1.2. Excess Change of Law Capital Expenditures. If one or more Change of Laws would cause Seller to incur Change of Law Capital Expenditures (in the aggregate) in excess of 10% of the Annual Capacity Price multiplied by the Contracted Capacity (kW) in any given Annual Period or, if pre-COD, the first Annual Period ("**Threshold Amount**"), and if Seller submitted a Change of Law Notice(s) for such Change of Law(s) in accordance with Section 17.1.1 (*Notice and Periodic Updates*), then Seller may, through written notice to GPC ("**Excess Capital Expenditures Notice**"), request GPC's approval, in GPC's sole discretion, of Seller's recovery of the incremental capital expenditures in excess of the Threshold Amount (the excess amount, "**Excess Change of Law Capital Expenditures**") through an adjustment to the Annual Capacity Price, except no adjustment will be allowed to an Annual Capacity Price for any Annual Period before Seller incurring Excess Change of Law Capital Expenditures. Seller may also propose to GPC in the Excess Capital Expenditures Notice operational changes that would allow for avoidance of Change of Law Capital Expenditures ("**Change of Law Operational Alternatives**"). For purposes of calculating the adjustment to the Annual Capacity Price associated with capitalized additions or modifications to the Facility (determined in accordance with GAAP), the Parties will, each acting in good faith and in a commercially reasonable manner, establish an appropriate annual fixed charge rate for application to the original capital cost of the additions, modifications, or other capital expenditures. This calculation will represent the total cost associated with the identified addition or modification, including depreciation, carrying costs, and any other cost or expense item related to capital investments. Seller may not seek recovery of any Change of Law Capital Expenditures for which Seller did not submit a Change of Law Notice under Section 17.1.1. The Excess Capital Expenditures Notice must supplement the Change of Law Notice, including addressing in detail the Excess Change of Law Capital Expenditures and setting forth Seller's calculations for the proposed increase in the Annual Capacity Price, as determined in accordance with this Section 17.1.2. Seller must demonstrate that: (i) Seller's proposed plan for complying with the Change of Law is reasonable and conforms with Prudent Industry Practices; and (ii) the Excess Change of Law Capital Expenditures are reasonable, consistent with Prudent Industry Practices, required for compliance with the Change of Law, and otherwise comply with this Section 17.1. Seller must promptly provide any other information reasonably requested by GPC concerning GPC's analysis of and response to Seller's Excess Capital Expenditures Notice.

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

17.1.4. Seller Response Notice; GPC Response. If GPC, in its sole discretion, rejects or is deemed to have rejected Seller's request to recover Excess Change of Law Capital Expenditures and Seller's Change of Law Operational Alternatives addressed in Seller's Excess Capital Expenditures Notice, Seller must, by no later than the Seller Response Deadline, provide its Seller Response Notice of whether Seller elects to: (i) pay Change of Law Capital Expenditures (including Excess Change of Law Capital Expenditures); or (ii) terminate this PPA effective as of the date set forth in the Seller Response Notice (which date will be no earlier than 365 Days after the date of the

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

17.1.5. Annual Capacity Price Adjustments. The Parties acknowledge that, except as provided in Sections 17.1.2 (*Excess Change of Law Capital Expenditures*), 17.1.3 (*Election Notice*), and 17.1.4 (*Seller Response Notice; GPC Response*), the Annual Capacity Prices will not be adjusted because of a Change of Law or Change of Law Capital Expenditures. If GPC has elected under Section 17.1.2 or Section 17.1.3 to accept Seller's proposed adjustment to Annual Capacity Prices to recover Excess Change of Law Capital Expenditures, Seller may not seek any additional adjustment to Annual Capacity Prices for the same Change of Law(s) addressed in such GPC election (including for any additional or different Change of Law Capital Expenditures arising from such Change of Law(s)). Any election by GPC under Section 17.1.2 or Section 17.1.3 to allow Seller to recover Excess Change of Law Capital Expenditures will apply only to the Change of Law and Excess Change of Law Capital Expenditures addressed in GPC's election.

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

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

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

responsible for all costs, expenses, charges, and fees concerning all compliance required in this Section 17.3.

17.4 Compliance with Required BMPs and Recommended Best Practices. On a regular basis throughout the Term, or as otherwise may be required by any Governmental Authority, Seller must review and maintain, and comply with all Required BMPs regarding the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Facility. "**Required BMPs**" are those "Best Management Practices" required or recommended by a Governmental Authority as made available at https://gadnr.org or, for a facility outside Georgia, similar best management practices applicable in the state where the Facility is located. 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 will take steps to regain compliance in accordance with any requirement of any applicable Governmental Authority or otherwise as promptly as commercially practicable. Seller must review all updates to, and any new, Required BMPs on a regular basis during the Term and must take steps as may be required to comply with any new or updated Required BMPs in accordance with this Section 17.4. In addition, on a regular basis throughout the Term, Seller must review all "Recommended Practices" published by the Georgia DNR and made available at https://gadnr.org ("**Recommended Best Practices**") regarding the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Facility. Seller must, at all times, act in good faith and use all commercially reasonable efforts to maintain and comply with all Recommended Best Practices. Seller must review all updates to, and any new, Recommended Best Practices on a regular basis during the Term and will take steps to comply with the same in accordance with this Section 17.4. If, while acting in good faith and using all commercially reasonable efforts Seller is unable to comply with any Recommended Best Practices during the Term, Seller must notify GPC of this inability and the reasons it is not able to comply, and the Parties will meet to discuss steps that Seller may take to achieve compliance, or partial compliance to GPC's reasonable satisfaction.

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

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

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

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

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

PART 18 ASSIGNMENT, TRANSFERS, AND CHANGES OF CONTROL

18.1 Assignment and Assumption of Obligations.

18.1.1. Seller Assignment Requirements.

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

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

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

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

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

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

18.3 Reimbursement for GPC's Costs. Seller agrees that, in the event Seller assigns or transfers an interest in the Facility or this PPA, as the transactions are described in Section 18.1.1 (*Seller Assignment Requirements*) and Section 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*), Seller must pay GPC twenty-five thousand dollars ($25,000.00) per occurrence for each and any proposed transaction and must pay to GPC ten thousand dollars ($10,000) per occurrence for each and any request for an estoppel in accordance with Section 18.1.1(iv) (*Estoppels Related to Financing or Purchasing of Interest*). If Seller requests GPC's consent under Section 18.1.1 or Section 18.2, and GPC undertakes drafting of consent documents or amendments to provide consent, and Seller thereafter fails to consummate the proposed transaction, GPC reserves the right, in its sole discretion, to require Seller to provide reimbursement to GPC in accordance with this Section 18.3.

18.4 General Requirements. Each Party acknowledges that any consent required by Sections 18.1 (*Assignment and Assumption of Obligations*) or 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*) will not be unreasonably withheld, conditioned, or delayed, but, neither Party will be required to accept a limitation of its rights under this PPA or an expansion of the liability, risks, or obligations imposed on the Party under this PPA (including changes in accounting treatment). It will be reasonable for either Party to condition its consent required by this Part 18 (*Assignment, Transfers, and Changes of Control*) on the execution of amendments to this PPA that are reasonably determined by the Party to be necessary to preserve the value and protection afforded to the Party under this PPA. It will be a condition of any assignment, transfer, Change of Control Transaction, or other disposition regarding this PPA or the

Facility under Section 18.1 or Section 18.2 that Performance Security required under Section 6.1 (*Performance Security*), if applicable, must remain in place despite such disposition, or that replacement security in form, substance and amount in full compliance with this PPA or otherwise reasonably acceptable to GPC will have been provided prior to such disposition. Any purported assignment, transfer, Change of Control Transaction, or other disposition with respect to this PPA or the Facility that is not in compliance with the applicable provisions of Section 18.1 or Section 18.2, will be null and void, and of no force and effect.

18.5 Request for Consent. Seller must: (i) request GPC's consent to assignment, transfer, or Change of Control under Section 18.1.1 (*Seller Assignment Requirements*) or Section 18.2 (*Restrictions Regarding, Assignment, Transfer, or Change of Control*) by providing written notice under Section 18.1.1(iii) (*Execution and Submission of Notice of Assignment Form*) at least 40 Business Days before the anticipated effective date of the requested assignment, transfer, or Change of Control; and (ii) receive GPC's consent to the requested assignment, transfer, or Change of Control, as evidenced by GPC's execution of the written consent. GPC and Seller will cooperate to finalize the form of written consent between Seller, Seller's assignee, or lender and GPC, as applicable. Subject to Seller's satisfaction of Section 18.1.1 or 18.4 (*General Requirements*), as applicable, and this Section 18.5 (*Request for Consent*), GPC will seek any required Consent from the Commission after GPC is satisfied that: (a) Seller's transaction is final but for such Consent; (b) a plan for any replacement of Eligible Collateral is satisfactory and sufficient; and (c) any required accounting determinations have been made by GPC and are acceptable.

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

PART 19 DISPUTE RESOLUTION

19.1 Notice of Dispute; Dispute Resolution Process. Either Party ("**Disputing Party**") has the right to give notice to the other Party ("**Responding Party**") that the Responding Party is not performing in accordance with the terms and conditions of this PPA. The notice ("**Notice of Dispute**") must describe with specificity the basis for the Disputing Party's belief and may propose a resolution of such dispute. Within 15 Business Days after receiving the Notice of Dispute, the Responding Party must provide the Disputing Party with a written response to the Notice of Dispute, which will describe with specificity the basis for the Responding Party's position and which may include additional issues (if any) regarding the dispute raised by the Notice of Dispute and may propose a resolution of the dispute ("**Dispute Response**"). This Section 19.1 will not apply to a Billing Dispute until the completion of the dispute resolution process for Billing Disputes set forth in Section 5.2 (*Billing Disputes and Financial Accounting*). Within five Business Days after the submission of the Dispute Response, the dispute must be submitted to a Seller designated senior Representative and a GPC designated senior Representative for resolution. If the designated senior Representatives are unable to resolve the dispute to the mutual satisfaction of the Parties within 20 Business Days after the submission to the designated senior Representatives, or any other period as the Parties may agree upon, then: (i) in the case of disputes described in Section 19.2 (*Expert Arbitration*), either Party may provide written notice to the other Party declaring an impasse ("**Impasse Notice**") and, after notice is given, the Parties must arbitrate the disputes under Section 19.2; (ii) in the case of disputes described in Section 19.3 (*JAMS Arbitration*), either Party may provide an Impasse Notice and then the Parties must arbitrate the disputes under Section 19.3; or (iii) in the case of any dispute that is not described in Section 19.2 or Section 19.3, either Party may pursue rights and remedies as may be available under applicable law or in equity subject to the terms and conditions of this PPA.

19.2 Expert Arbitration. Upon the submission of an Impasse Notice, a dispute regarding: (i) the results of a Performance Test (under any provision of this PPA); (ii) Seller Event of Default under Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies*); or (iii) the development of Maintenance Schedules under Section 10.2.1 (*Maintenance Schedule Reporting and Approvals*) will be resolved by arbitration as set forth in this Section 19.2.

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

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

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

19.3 JAMS Arbitration. Upon the submission of an Impasse Notice: (i) a dispute regarding the calculation of a Termination Payment in accordance with Section 16.3.3 (*Determining Gains, Losses, and Costs*); or (ii) a billing dispute under Section 5.2 (*Billing Disputes and Final Accounting*), including a dispute concerning GPC's application of the Performance Metrics and resulting calculation of a Monthly Capacity Payment in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) (each a, "**Billing Dispute**"),will be resolved by arbitration as set forth in this Section 19.3.

19.3.1. JAMS. The Billing Dispute will be resolved under the Federal Arbitration Act by binding arbitration following the JAMS Comprehensive Arbitration Rules and Procedures ("**Rules**") of Judicial Arbitration and Mediation Services ("**JAMS**") then in effect, including its evidentiary and procedural rules, except as modified in this PPA. It is the Parties' intent that the arbitration, including the selection and qualification of arbitrators, will be conducted in accordance with the Rules, as amended and supplemented, except where specifically modified by this PPA, and not by the terms of any state arbitration act or other applicable law.

19.3.2. Initiation of Arbitration; Selection of Arbitrators.

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

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

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

each present evidence and witnesses as it may choose. Arbitration will be conducted in accordance with the Rules, as amended and supplemented, except where specifically modified by this PPA.

19.3.4. Confidential Proceeding. Each Party must maintain the confidentiality of the arbitration proceedings, except as reasonably necessary to effectively represent itself in the proceeding to enforce the arbitration award or determination, or as otherwise required by law. All discovery materials will remain confidential in accordance with Section 20.16 (*Confidentiality*).

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

19.3.6. Arbitrator Decisions.

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

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

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

19.5 Mandatory Arbitration. Subject to Section 19.3.6 (*Arbitrator Decisions*), each Party understands and agrees that when arbitration is required under this Part 19, arbitration is mandatory and each party waives any right to seek judicial relief or file court proceedings to determine the specified matters under Section 19.2 (*Expert Arbitration*) or Section 19.3 (*JAMS Arbitration*), other than the right to seek judicial relief to compel arbitration, to confirm an arbitration award, or to seek injunctive relief under Section 19.6 (*Injunctive Relief*) of this PPA.

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

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

PART 20 MISCELLANEOUS PROVISIONS

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

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

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

20.4 Notice. All notices, requests, consents, claims, demands, waivers, and other communications under this PPA must be in writing. Exhibit Q (*Notices*) lists each Party's point-of-contact for PPA notices and correspondence. Each Party will provide notice to the other as provided in Exhibit Q. Notice under this Section 20.4 must include the GPC project identification number referenced in this PPA's title and Facility name and must be by: (i) personal delivery (effective the date of delivery); (ii) if the Party has provided an email address for official notice purposes, email delivery (effective that date if sent by 5:00 p.m. (recipient's time); otherwise, the next Business Day; (iii) repaid nationally- or internationally- recognized commercial overnight courier (receipt requested; effective the next Business Day); or (iv) registered or certified U.S. mail, with proper postage (effective after the fourth Business Day). In all instances, notice to the respective Parties should be directed as specified in Exhibit Q.

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

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

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

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

20.9 No GPC Affiliate Liability. Notwithstanding any other provision of this PPA, no Affiliate of GPC (including any Affiliate of GPC acting as GPC's agent where GPC's agent is given certain authorities) will have any liability whatsoever for any performance, nonperformance, or delay in performance under this PPA, except in the event of an assignment of this PPA to an Affiliate of GPC pursuant to Section 18.1.2 (*GPC Assignment*), in which case, such assignee will be liable for GPCs obligations arising under this PPA from and after the date of assignment.

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

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

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

20.13 Agency. This PPA will not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party will have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

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

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

20.16 Confidentiality.

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

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

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

20.16.4. Public Statements. Any public statement or other announcement by a Party concerning the transaction described in this PPA will be reviewed and agreed upon by the Parties before release, which agreement will not be unreasonably withheld, conditioned, or delayed. Seller and its Affiliates must not issue any public statement (including any news release, internet, website, social media posting, or other publication) concerning: (i) this PPA or the transactions described in this PPA; (ii) the Facility with respect to this PPA; or (iii) Seller's relationship with GPC without the

communication first being reviewed and agreed upon by the Parties before release to the public. In addition, Seller is responsible for ensuring that its contractors, Affiliates, and contractual counterparties, and each of their respective employees, contractors, and agents, fully comply with this Section 20.13.4 (*Public Statements or Press Releases*).

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

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

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

20.17 Contract Interpretation. Each exhibit, attachment, appendix, schedule, regulatory requirement, policy, procedure, standard, or other document attached to or referenced in this PPA (expressly including the *Schedule of Defined Terms*) is incorporated into, and is integral to, this PPA as if included in the main body. In this PPA and in all attached or incorporated documents: (i) whenever the term "**include**," "**including**," or "**e.g.**" is used in connection with a listing of items included within or an example of the prior reference, the listing will be interpreted to be illustrative only, and will not be interpreted as a limitation on or exclusive listing of the items included in the prior reference; and (ii) "**or**" means either or all (i.e., "A or B" means "A or B or both A and B").

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

Reference to: (i) a Party or Person includes any allowed successor or assign; (ii) a regulatory authority includes an authority succeeding to the same function; and (iii) an applicable law is to the law as modified or amended and then effective. Reference to a PPA part by caption (e.g., *Facility Operations*) or number (e.g., Part 6 (*Performance Security*)) includes all separate sections (e.g., Section 6.2 (*Replacement Collateral; Substituted Collateral; Release of Collateral*) and subsections (*e.g.*, Section 6.2.1 (*Replacement Collateral*)) within that part and reference to a section by caption or number includes all separate clauses within that section. To the extent there is a conflict between CPT and ET, CPT will prevail.

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

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

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

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

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

[Signature Page Follows]

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

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

EXHIBIT A – FACILITY DESCRIPTION AND ADDITIONAL DETAILS

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

PART 1

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

[NOTE TO BIDDERS: Term of 5, 10, 15,20, 25, or 30 Annual Periods based on Delivery Commencement Date.]

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

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

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

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

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

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

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

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

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

		level 3 critical path method schedule that supports the RCOD.
All Permits required for Facility construction and Commercial Operation. • Applications submitted • All Permits obtained		A matrix of required Permits, copies of applications submitted, and a copy of Permits obtained.
Financial Closing		A letter from an officer of Seller certifying that the following occurred: (i) Seller obtained and has closed on all financing arrangements necessary to obtain funds for the anticipated cost of completing construction of the Facility; (ii) all conditions precedent to the availability of funds pursuant to such financing arrangements have been satisfied or waived by the applicable parties (other than customary conditions to each drawdown of a construction loan), and such funds (subject to customary conditions to each drawdown of a construction loan) will be made available for disbursement to Seller; and (iii) an officer of Seller has provided GPC with an executed certification that the foregoing (i) and (ii) have occurred.
Interconnection Notice to Proceed	The date by which the IA notice to proceed must be issued for commercial operation (as defined in the IA) to be achieved in time to support RCOD.	An executed copy of the Interconnection Notice to Proceed
EPC Notice to Proceed		A copy of the EPC Notice to Proceed.
Delivery of Major Equipment to the Facility site by dates required to		

support COD by Required COD under the PPA.		
Achievement of EPC Contract key milestones: • Site mobilization • Mechanical Completion • Substantial Completion • Initial synchronization		
RCOD		

EXHIBIT A-2 – PERFORMANCE SECURITY AND LIQUIDATED DAMAGES

PART 1. PERFORMANCE SECURITY

Time Period			Eligible Collateral ($/kW)[2]
Post Execution Period > Two Years Before anticipated Delivery Commencement Date			
Post Execution Period < Two Years Before anticipated Delivery Commencement Date			
Delivery Commencement Date through PPA Term	Annual Period	1-5	
		6-10	
		11-15	
		16-20	
		21 – 25	
		26 – 30	

PART 2. LIQUIDATED DAMAGES

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

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

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

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

PART 1. TESTING REQUIREMENTS

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

1.2. Tested Storage Capacity; Performance Testing.

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

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

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

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

1.2.3. GPC Election; No Waiver. GPC in its sole discretion may elect to waive any Performance Test requirement. Any GPC election to waive any Performance Testing requirement will not waive any Performance Testing requirement for future Performance Tests or otherwise relieve Seller from any Performance Guarantee obligation.

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

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

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

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

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

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

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

1.3.4. Failure to Cure Inadequate Tested Storage Capacity Above 70% Contracted Capacity; Buydown Liquidated Damages. If Seller fails to: (i) establish the cure plan within

the required 10-Day period set forth in Section 1.3.1 (*Cure Plan and Cure Period*) or, if applicable, establish the revised cure plan within the required 15-Day period set forth in Section 1.3.1.A (*Cure Period Extension*) for a Cure Period extension; or (ii) diligently implement the cure plan (including implementation of actions as GPC may reasonably request); or (iii) cure the inadequate Tested Storage Capacity within the applicable Cure Period, the SDDC will be deemed to be the Tested Storage Capacity demonstrated in the most recent Performance Test.

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

[**Note to Bidders:** Table B-1 will be populated using the applicable amounts stated in RFP Exhibit E – Attachment 1.]

Table B-1	
Buydown Payment for Capacity Reduction below Contracted Capacity	
Annual Period	**Buydown Payment ($/kW)**
1-5	#Amount
#6-10	#Amount
#11-15	#Amount
#16-20	#Amount
#20 – 25	#Amount
#25 – 30	#Amount

If SDDC is reduced as set forth in this Section 1.3 (*Tested Storage Capacity Below SDDC; SDDC Buydown*), and, after the SDDC reduction, Seller restores the ESS capacity to a value equal to or greater than the Contracted Capacity, then: (i) GPC will not be required to refund to Seller any buydown liquidated damages Seller paid under Section 1.3.4.A; and (ii) Seller may offer the restored capacity, up to the Contacted Capacity, to GPC at the Annual Capacity Price and in accordance with the payment terms set forth in Exhibit C (*Monthly Capacity Payments; Monthly*

Capacity Reductions; AGC Performance Metrics and Requirements). If GPC accepts Seller's offer, the SDDC will be increased by an amount equal to the portion of the restored capacity accepted by GPC, not to exceed the Contracted Capacity. Any adjustment to SDDC will be documented in the Operating Procedures.

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

PART 1. PRICING

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

Table C-1
Annual Capacity Price

Annual Period	($/kW-year)

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

1.2. Monthly Capacity Payment.

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

MCP = MCF – MCR

Where:

MCF = Monthly Capacity Fee, determined as follows:

MCF = SDDC * (ACP * 1000) * MVF

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

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

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

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

1.2.2. Pro Rata MCP Calculation. If the Delivery Commencement Date occurs on a Day other than the first Day of a Month, or if the last Day of the Term occurs on a Day other than the last Day of a Month, GPC will calculate the MCP on a pro rata basis.

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

Table C-2
Monthly Value Factor (MVF)

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

1.3. No GPC Payment Obligation Before RCOD; No GPC Payment or Compensation for Renewable Resource Capacity. GPC will not owe Seller: (i) any payment or other compensation for the capacity of the Facility for any Month before the Delivery Commencement Date even if Seller achieves Commercial Operation of the Facility before the RCOD; or (ii) any separate payment or compensation during the Term for the Renewable Energy.

PART 2. MONTHLY CAPACITY REDUCTIONS; PERFORMANCE METRICS.

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

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

Where:

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

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

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

Table C-3
Storage Performance Reduction

Storage Performance Metric Achieved	Storage Performance Reduction
Storage Performance Metric Achieved ≥ 0.96	No reduction
0.96 > Storage Performance Metric Achieved ≥ 0.75	(1.0 - Storage Performance Metric Achieved) * 4 * MCF($)
0.75 > Storage Performance Metric Achieved	1.0 * MCF($)

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

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

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

Where:

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

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

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

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

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

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

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

Where:

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

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

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

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

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

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

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

RTE Performance Reduction =

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

Where:

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

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

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

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

Guaranteed RTE = as defined in the Definitions.

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

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

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

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

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

2.6. Annual Renewable Energy Performance True-up. No later than sixty (60) Days after the end of each Annual Period, GPC will determine if the Seller must pay an Annual Renewable Energy Performance True-up in accordance with Table C-5 below, based on Seller's "**Annual Renewable Energy Factor" (AREF)** for the applicable Annual Period. Seller guarantees that the AREF will be at least ninety percent (90%) for each Annual Period. If Seller's AREF is less than ninety (90%), Seller must pay to GPC an Annual Renewable Energy True-up payment calculated in accordance with Table C-5 below no later than thirty (30) Days after receipt of GPC's invoice.

Table C-5
Annual Renewable Energy Performance True-up

Annual Renewable Energy Factor (AREF)	Annual Renewable Energy Performance True-up for the applicable Annual Period
AREF ≥ 0.90	No True-up
0.90 > AREF ≥ 0.65	(0.90 - AREF) * 2 * sum of MCPs
0.65 ≥ AREF	0.50 * sum of MCPs

For purposes of determining the Annual Renewable Energy Performance True-Up in Table C-5 above, the AREF will be calculated as follows:

$$AREF = \frac{\text{Available Renewable Energy}_{\text{i}}}{\text{Annual Renewable Energy Forecast}_{\text{i}}}$$

Where:

i = the applicable Annual Period during the Term

Available Renewable Energy (MWh) = the sum of: (i) all Renewable Energy that was produced or was available to be produced; and (ii) Curtailed Renewable Energy for applicable Annual Period; and

Annual Renewable Energy Forecast = as defined in the Definitions

PART 3. AGC PERFORMANCE METRICS AND REQUIREMENTS

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

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

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

3.2. Calculating AGC Status and Setpoint Requirements. At the end of each Month, GPC will determine for the ESS: (i) the AGC Status Performance Requirement by calculating the AGC Status Performance Metric; and (ii) the AGC Setpoint Response Performance Requirement by calculating the AGC Setpoint Response Performance Metric. Each AGC Performance Requirement applies independently to the ESS and the Renewable Resource. The Renewable Resource will be evaluated separately from the ESS.

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

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

Where:

n = For ESS, total 6-second AGC periods in the Month; for the Renewable Resource, total 6-second AGC periods in the Month when generation >0MW or AGC Setpoint = 0MW (e.g., includes all solar hours when Potential High Limit > 0 MW).

i = 6-second data point; and,

"AGC Status" = "1" if the ESS or Renewable Resource is in AGC mode and capable of responding to GPC's AGC Setpoint signal, or "0" if the ESS or Renewable Resource is not in AGC mode and is not capable of responding to GPC's AGC Setpoint signal. For a Renewable Resource, only 6-second AGC periods when generation > 0MW or AGC Setpoint = 0MW will be included.

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

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

$$\textbf{Renewable Resource RMSE} = \sqrt{\frac{\sum_{i=1}^{n}(\text{AGC Setpoint}_i - (\text{Renewable Resource Output})_i)^2}{n}}$$

Where:

n = For ESS, total 6-second AGC periods in the Month for which there is a non-zero AGC Setpoint signal; for the Renewable Resource, total 6-second AGC periods in the Month for which there was a Curtailment implemented by AGC for a Renewable Resource;

i = 6-second data point; and,

AGC Setpoint = AGC Setpoint value (MW) for the 6-second AGC period for the applicable resource;
ESS Input/Output = For ESS, the energy (MW) either delivered from the ESS or to the ESS for the 6-second AGC period;
Resource Energy Output = For Renewable Resource, the energy (MW) output from the Renewable Resource at the POI for the 6-second AGC period;

Any 6-second period during which there is no Curtailment implemented by AGC will be excluded from the calculation of Renewable Resource RMSE and any 6-second during which the AGC Setpoint signal = 0 will be excluded from the calculation of ESS RMSE.

EXHIBIT D – ANNUAL RENEWABLE ENERGY FORECAST

Table D-1	
Contract Year	**Annual Energy Forecast (MWh)**
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	Add rows as needed

This data will constitute Seller's binding forecast of energy that must be produced by the Renewable Resource and will be used to calculate the Annual Energy Performance True-up. [Note to Bidder: As part of its Bid, Bidder must provide details on the modeling used to develop this forecast.]

EXHIBIT E – PERFORMANCE TESTING PROCEDURES

PART 1. PERFORMANCE TESTING SUMMARY

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

1.2. Charge/Discharge Cycles. The output must not deviate more than 2% from ROC. The charge Cycle ends when the ESS reaches 100% of SDOE or output at the POI drops below 98% of ROC for two minutes. None of the energy below 98% of ROC will be included in the Performance Testing calculations. The ESS will rest for 30 minutes between the end of the charge Cycle and start of the discharge Cycle. The discharge Cycle will start when output at the POI is at least 98% of the SDDC. The output at the POI should not deviate more than 2% from the SDDC during the discharge cycle. The discharge Cycle ends when the ESS reaches 0 % of SDOE or the output at the POI drops below 98% of SDDC for two minutes. None of the energy below 98% of the SDDC will be included in the Performance Testing calculations. The ESS may rest and then be charged to a suitable SOC to rest overnight for the next Cycle the following Day. All relevant data points must be recorded in one-minute increments and the raw data must be made available three Days after conclusion of Performance Testing. A report including all Performance Testing calculations and a summary of results must be submitted to GPC five Days after conclusion of Performance Testing.

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

EXHIBIT F – FACILITY OPERATING AND DISPATCHING REQUIREMENTS

PART 1. SELLER REQUIREMENTS:

2.1. Seller is responsible for:

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

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

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

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

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

PART 3. DISPATCH.

3.1. During the Term, the Parties agree to the following parameters for the dispatch of the ESS and Renewable Resource:

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

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

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

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

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

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

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

PART 4. CHARGING OF THE ESS.

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

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

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

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

EXHIBIT G – AGC AND FACILITY MINIMUM DATA REQUIREMENTS

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

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

PART 1. RENEWABLE RESOURCE + STORAGE DATA POINTS

1.1. From GPC to Facility

1.1.1. Renewable Resource Setpoint (MW)

1.1.2. ESS Setpoint (MW)

1.2. From Facility to GPC

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

A. Total Renewable Resource+ ESS net output AC MW (positive for discharging, negative for charging)

B. Total Renewable Resource + ESS net output AC MVAR

C. Three-phase voltage (kV)

D. Three-phase current (A)

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

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

A. Individual Feeder Aggregated output AC MW

B. Individual Feeder Aggregated output AC MVAR

C. Three-phase voltage (kV)

D. Three-phase current (A)

E. Reactive device output MVAR (if applicable)

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

A. Individual BESS Feeder Breaker status

B. Reactive device breaker status (LTC, shunts, dynamic reactive devices, etc.)

C. Reactive device circuit switcher status (if applicable)

1.2.5. Ramp Rates (MW/min)

A. Renewable Resource Ramp Rate (+ MW/min)

B. Renewable Resource Ramp Rate (- MW/min)

C. ESS AGC Ramp Rate Increase (+MW/min)

D. ESS AGC Ramp Rate Decrease (-MW/min)

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

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

1.2.8. Generation

A. Renewable Resource Generation AC MW

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

C. ESS AC MW (positive for discharging, negative for charging)

1.2.9. AGC Signals

A. Renewable Resource AGC Status (True/False)

B. ESS AGC Status (True/False)

C. Renewable Resource Setpoint Feedback (MW)

D. ESS Setpoint Feedback (MW)

1.2.10. Limits

A. Renewable Resource Operating High Limit (MW)

B. Renewable Resource Capacity [High Limit (MW)]

C. Renewable Resource High Limit Status (True/False)

D. Renewable Resource Potential High Limit (MW)

E. Renewable Resource Operating Low Limit (MW)

F. Renewable Resource Low Limit Status (True/False)

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

H. ESS SDDC [High Limit (MW)]

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

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

K. Maximum Operational State of Charge Limit (MWh)

L. Minimum Operational State of Charge Limit (MWh)

1.2.11. Renewable Resource Station Service Power (MW)

1.2.12. ESS Station Service/Auxiliary Operational Load (MW)

1.2.13. Present State of Charge (MWh)

1.2.14. Discharge Time (minutes)

1.2.15. Charge Time (minutes)

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

1.2.17. % of Stack in service

1.2.18. Number/percentage of inverters producing/absorbing power

1.2.19. Number/percentage or inverters available

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

1.2.21. Average Site Irradiance (W/m^2)

PART 2. ESS (STANDALONE) DATA POINTS

2.1. From GPC to Facility

2.1.1. ESS Setpoint (MW)

2.2. From Facility to GPC

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

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

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

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

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

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

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

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

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

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

2.2.8. ESS AGC Status (True/False)

2.2.9. Present State of Charge (MWh)

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

2.2.11. Minimum Operational State of Charge limit (MWh)

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

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

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

2.2.15. ESS SDDC [High Limit (MW)]

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

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

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

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

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

2.2.21. % of stack in service

2.2.22. Station Service & Auxiliary Operational Load (MW)

2.2.23. ESS Setpoint Feedback (MW)

2.2.24. Number/percentage of inverters producing power

2.2.25. Number/percentage or inverters available

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

PART 3. GENERAL FLOW OF AGC

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

The Renewable Resource will receive AGC Setpoints equivalent to the Operating High Limit or the Potential High Limit and operate at full generation until an AGC Setpoint below the Potential High Limit is received. Upon receiving this AGC Setpoint for Curtailment, the Facility will reduce output to meet the AGC Setpoint.

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

PART 4. EXPLANATION OF POINTS

4.1. Renewable Resource Setpoint (MW)

4.1.1. This will be an integer value that will range from the Operating Low Limit to the Operating High Limit for the Renewable Resource. If not in curtailment, this value will echo either the Operating High Limit or the Potential High Limit (PHL), depending on system conditions. If the setpoint echos the Operating High Limit, the site will operate as-capable. If the setpoint echos the PHL, the site will not exceed the PHL telemetry value. If curtailment is active, the site output will follow the AGC setpoint below the Potential High Limit.

4.2. ESS Setpoint (MW)

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

4.3. Renewable Resource Ramp Rate (+/- MW/min)

4.3.1. This is a plant controller level ramp rate at which the Renewable Resource will ramp up or down, up to the maximum allowable ramp rate specified in the IA. This is not the actual real-time ramp rate, but the rate at which the plant will transition to the next setpoint. The Renewable Resource Ramp Rate will be indicative of the Renewable Resource and indicates the rate at which the Renewable Resource would increase generation after a curtailment is lifted. In all cases, the Renewable Resource Ramp Rate should not exceed the maximum allowable ramp rate in the IA.

4.4. Max Renewable Resource Ramp Rate (+/- MW/min)

4.4.1. This is the maximum allowable ramp rate per the IA. This is a fixed value and will be the rate at which the Renewable Resource Setpoint could be curtailed by AGC.

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

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

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

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

4.7. Gross ESS DC MW

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

4.8. Renewable Resource AGC Status

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

4.9. Renewable Resource Operating High Limit (MW)

4.9.1. The current maximum generating capacity of the Renewable Resource. This is the maximum possible generation of the Renewable Resource including any de-rates, independent of Renewable Resource irradiance. This limit is to be reduced if equipment issues reduce the total Renewable Resource Capacity. If there are no equipment issues or de-rates, this value will be the same as the Renewable Resource Capacity.

4.10. Renewable Resource Capacity (MW) [High Limit]

4.10.1. This is the max design capacity of the Renewable Resource up to the POI limit. This will be a fixed number and is independent of Renewable Resource irradiance or equipment de-rates.

4.11. Renewable Resource High Limit Status

4.11.1. This will be an integer value that will range from 0 to 1. Its normal state will be to a 0. A value of 1 will indicate generation is at the high limit.

4.12. Renewable Resource Potential High Limit (MW)

4.12.1. This is the potential real time actual limit of the Renewable Resource inclusive of Renewable Resource irradiance and any equipment issues. This real-time telemetry point will indicate what the Renewable Resource's output would be if no curtailment is present.

4.13. Renewable Resource Operating Low Limit (MW)

4.13.1. The current minimum generating capacity of the Renewable Resource. During normal operation, the facility will provide a low limit for available curtailment. Expectation is this would be 0 MW under normal conditions unless an equipment issue exists that prevents the Renewable Resource from returning to full normal output following the full curtailment.

4.14. Renewable Resource Low Limit Status

4.14.1. This will be an integer value that will range from 0 to 1. Its normal state will be to a 0. A value of 1 will indicate generation is at the Operating Low Limit.

4.15. Renewable Resource Setpoint Feedback (MW)

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

4.16. ESS Setpoint Feedback (MW)

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

4.17. ESS AGC Status

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

4.18. Present State of Charge (MWh)

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

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

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

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

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

4.21. ESS Discharge Time (minutes)

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

4.22. ESS Charge Time (minutes)

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

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

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

4.24. ESS SDDC [High Limit (MW)]

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

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

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

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

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

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

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

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

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

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

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

4.30. Station Service & Auxiliary Operational Load (MW)

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

4.31. % of stacks in service

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

4.32. Number/Percentage of inverters producing Power

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

4.33. Number/Percentage of inverters available

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

4.34. Number/Percentage of inverters offline

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

4.35. Average Site Irradiance

4.35.1. Average irradiance for the solar site based on meteorological stations.

EXHIBIT H – FACILITY ONE-LINE DIAGRAM

[Insert one-line diagram for Facility]

EXHIBIT I – REQUIREMENTS FOR PPA FACILITY

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

PART 1. SOLAR PHOTOVOLTAIC

1.1. Hydrology and Site Drainage

1.1.1. Site grading must ensure positive drainage of the Site.

1.1.2. Site design must ensure no flooding, no standing water, and no increase in flows offsite.

1.1.3. The drainage design must be based on a 100-year, 24-hour rain event.

1.1.4. No portion of the Facility may be located in a floodplain without the proper permit(s) from the appropriate Governmental Authority.

1.1.5. The construction contract scope must include responsibility of contractor to close out the National Pollutant Discharge Elimination System (NPDES) permit.

1.2. Site Grading and Stabilization

1.2.1. Measures must be in place to prevent sediment loss.

1.2.2. Permanent site vegetation and site stabilization must be completed before demobilizing.

1.3. Facility Design

1.3.1. Equipment must be sized to deliver rated Facility nameplate power at the POI, accounting for worst-case local ambient temperature, and interconnection reactive power requirement.

1.3.2. Site performance at the POI must meet the interconnection requirements as set forth by the Interconnection Provider.

1.3.3. Reactive power requirement must be solely met by the inverters without the use of capacitor banks.

1.3.4. All equipment enclosures (e.g., combiner boxes) must be tamperproof and lockable (e.g., a special tool or key is required to open the equipment enclosure).

1.4. Major Equipment Vendors

1.4.1. Major equipment vendors must demonstrate quality and performance and be prepared to perform future warranty and maintenance work.

1.4.2. Major equipment must be manufactured in factories certified to both IEC TS 62941 and ISO 9001.

1.4.3. Final major equipment vendors subject to review.

1.5. PV Module

1.5.1. Solar modules should be sourced from Bloomberg New Energy Finance (BNEF) Tier 1 photovoltaic manufacturers.

1.5.2. Provide detailed Highly Accelerated Life Test (HALT) report (PVEL or equivalent) for the specific module proposed, preferably from independent third-party testing agency.

1.5.3. Provide module manufacturing location and Bill of Material (BOM).

1.6. Inverter

1.6.1. Inverters must be listed to UL1741 latest version.

1.6.2. Inverters may be reviewed by Buyer.

1.6.3. Inverters must be capable of producing their maximum rated reactive power at all active power levels (from 0% to 100% inclusive), when the primary energy source is available and not available.

1.6.4. Inverters must be equipped with DC ground detection means through either insulation monitoring or differential current monitoring.

1.6.5. Facilities that are transmission interconnected must conform to NERC recommendations and requirements pertaining to IBR facilities.

1.7. Inverter Step-up Transformer

1.7.1. Transformers must be two-winding and KNAN type cooling; winding must be copper.

1.7.2. All transformers must be IEEE routinely tested including dielectric test, impulse test, and power factor test. Lightning impulse tests must include one full wave test.

1.7.3. Oil reservoir for spill containment must be provided for each transformer.

1.8. MV Switchgear

1.8.1. MV switchgear protection scheme must at minimum include main break protection, feeder breaker protection, bus differential protection, a dedicated bus lockout, and breaker failure functionality.

1.8.2. All current transformers (CT) must have an accuracy class of C400 or higher.

1.9. Grounding

1.9.1. Dual grounding, as depicted in IEEE 665, must be provided in all cases with an equipment grounding conductor (for a reliable ground fault current return path) and an additional local safety ground (for limiting touch potential).

1.10. PV Monitoring

1.10.1. Meteorological and performance monitoring equipment/system must conform to IEC61724 and the requirements defined for a Class A (high) accuracy monitoring system.

1.10.2. Table 4 of IEC61724 must be used to determine the number of devices required. At minimum two devices of each measurement type must be provided.

1.10.3. At minimum two soiling stations utilizing full sized modules must be provided.

1.11. Testing

1.11.1. Operational Test, Performance Ratio Test, and Capacity Test (ASTM Based) must be performed for PV facilities.

1.11.2. Additional testing, if required under the IA, must also be performed.

1.11.3. NERC testing must be performed for facilities defined as a Bulk Electric System (BES).

1.12. Main Power Transformer

1.12.1. Transformers must be capable of meeting 100% of Facility output using 100% ONAN-cooling.

1.12.2. Transformer suppliers may be subject to review.

1.12.3. RIS-type bushings are preferred.

1.12.4. Transformers must be designed with a 25% temporary emergency overload.

1.12.5. Transformer overload capability must be unlimited by components (i.e., bushing ratings, DETC rating, etc.)

1.12.6. The transformer tank design must be in accordance with IEEE C57.156 Table 1 to mitigate tank rupture in the event of a high-energy arcing fault internal to the tank.

1.13. Facility Substation

- Facility substations must meet safety requirements of the NESC-2023 and comply with the design principles set forth ASCE 7, ASCE 113, IEEE 605, and IEEE 80.
- Facility substations must be commissioned to NETA ATS 17 standards.
- All bus and cable sizes must be designed with a maximum operating temperature of 80 °C with a 40 °C ambient, with no sun and 2 ft/s wind.
- Spatial separation from oil-filled electrical equipment must be compliant with IEEE 979-2012.
- All equipment suppliers, protection and control designs and settings, and grounding design/modeling will be subject to review.

1.14. Cyber Security

1.14.1. GPC Site connectivity must be in compliance with NERC CIP policies as well as the GPC Cyber Security Policy.

1.15. End-of Life Disposal

1.15.1. The Toxicity Characteristic Leaching Procedure (TCLP) testing procedure and results for modules must be submitted.

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

PART 2. ESS

2.1. Battery Energy Storage System (BESS)

2.1.1. Units listed to UL9540 2nd edition.

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

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

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

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

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

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

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

2.2. Inverter

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

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

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

2.3. Facility Design

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

2.3.2. Battery enclosures must be spaced per NFPA 855.

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

2.4. Testing

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

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

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

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

2.5. End-of Life Disposal / Demolition

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

PART 3. ACKNOWLEDGMENT:

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

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT J – FORM OF COMMERCIAL OPERATION COMPLETION CERTIFICATE

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

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

In accordance with PPA Section 7.1.5 (*Commercial Operation*), Seller certifies to GPC that Seller fully satisfied the following criteria for Commercial Operation of the Facility:

i. Seller has demonstrated to GPC's reasonable satisfaction that the Facility is capable of producing, receiving, and delivering all of the energy obligated to be delivered pursuant to this PPA to the POI on a reliable basis in accordance with the IA and Prudent Industry Practices;

ii. the Facility's AGC system, as approved by GPC under PPA Section 10.8 (*AGC*), is completely installed and fully operational and is connected to GPC's AGC RTU, and Seller has demonstrated to GPC that the Facility is capable of responding to and following GPC's AGC Setpoint signals and that the Facility's AGC system otherwise satisfies PPA Section 10.8 and PPA Exhibit G (*AGC and Facility Minimum Data Requirements*);

iii. the Facility's PHL estimation system, as approved by GPC under PPA Section 4.14 (*Potential High Limit; Curtailed Energy*), is completely installed and fully operational and Seller has provided to GPC a detailed analysis and verification pursuant to PPA Section 4.14 that demonstrates that the PHL estimation system is capable of satisfying the performance and accuracy requirements of PPA Section 10.10.1 (*PHL Estimation System*);

iv. GPC is able to receive such Energy at the POI on a reliable basis in accordance with Prudent Industry Practices;

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

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

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

Seller certifies that Commercial Operation of the Facility was achieved as of **#CommercialOperationDate#**. Seller agrees to provide photographs of the Facility and Site at GPC's request. The electrical inspection documentation in support of Seller's certification of Commercial Operation is attached. Seller grants to GPC and its agents, affiliates, successors, and assigns an irrevocable, worldwide, royalty-free, and unrestricted right and license to use, duplicate, modify, sublicense, distribute, display, and otherwise engage the photographs and related intellectual property, including the creation of

derivative works. Seller represents and warrants that it has the exclusive right to grant the license to GPC for the purposes stated in the PPA.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT K – FORM OF STANDBY LETTER OF CREDIT

[Bank Letterhead]
Date of issuance: _____, 20__

Irrevocable Standby Letter of Credit No:_____

"Issuer": _____

Address: _____

"Beneficiary": Georgia Power Company

Address: c/o Southern Company Services, Inc.
Attn: Assistant Treasurer
BIN SC1407
30 Ivan Allen Jr. Blvd., NW
Atlanta, GA 30308

Project ID: GPC-[Add Project ID]

Program ID: 2029-2031 All-Source RFP

"Account Party": _____

Address: _____

"Expiry Date": _____, 20__, and any automatically extended date, as herein provided [(but in no event later than _____, 20__)]

"Total Amount": _____United States Dollars (U.S. $_____)

We, the Issuer, hereby establish in your favor, for the account of the Account Party, our irrevocable standby letter of credit ("**Standby Letter of Credit**"), in the aggregate amount not exceeding the Total Amount.

Funds under this Standby Letter of Credit are available to you on or before the Expiry Date by presentation of your demand signed by one of your officers or authorized representatives, and delivered to us in substantially the form attached as Annex 1 (*Form of Sight Draft*) and referring thereon to the number and date of this Standby Letter of Credit, accompanied by a written and completed certificate signed by a person purporting to be one of your officers or authorized representatives, in the form attached as Annex 2 (*Form of Certificate*), with appropriate insertions.

This Standby Letter of Credit is effective immediately and expires at 5:00 p.m. (Eastern Time) on the Expiry Date. It is a condition of this Standby Letter of Credit that the Expiry Date will be deemed automatically extended without amendment for a period of one year from the present or any future Expiry Date, unless we notify you not less than ninety (90) days prior to any such date, in accordance with the notice provisions set forth herein, that we have elected not to extend the Expiry Date for such additional period.

Delivery of demands and certificates will be made on any day that is a business day for us at or prior to 5:00 p.m. (Eastern Time) at our office located at _____, or at any other office in the United States of America that is designated by us in a written notice delivered to you. If such demand and such certificate are received at any such office on or prior to the Expiry Date, we hereby agree with you that we will duly honor the same within three (3) business days of such presentation. Notwithstanding the foregoing, you may demand payment under this Standby Letter of Credit by facsimile or electronic transmission when promptly confirmed by written demand; however, actual disbursement of funds under a demand presented by facsimile or electronic transmission may not occur until we are presented with the original Standby Letter of Credit.

Partial drawings and multiple presentations may be made under this Standby Letter of Credit, provided, however, that each such demand that is paid by us will reduce the amount available under this Standby Letter of Credit.

Except as is expressly set forth herein, payment of demands made under this Standby Letter of Credit is not subject to any agreement, condition or qualification. The obligation of the Issuer under this Standby Letter of Credit is the individual obligation of the Issuer and is in no manner contingent upon reimbursement with respect thereto.

Funds available for drawing under this Standby Letter of Credit may not directly or indirectly constitute funds or collateral deposited with the Beneficiary, or for the Issuer's account by the Account Party, or pledged with or for the Issuer's account by the Account Party.

This Standby Letter of Credit is transferable and can be successively transferred to any transferee that Beneficiary states in writing to us has succeeded such Beneficiary under this Letter of Credit; provided that such transfer to such transferee is in compliance with applicable U.S. laws and regulations. Transfer of this Standby Letter of Credit to any transferee will be effected by the presentation to us of this Standby Letter of Credit accompanied by a certificate in the form attached as Annex 3 (*Form of Instruction to Assign in Entirety*), with appropriate insertions, signed by a person purporting to be an officer or authorized representative of the Beneficiary. Upon such presentation, we will forthwith issue an irrevocable letter of credit to such transferee with provisions therein consistent with this Standby Letter of Credit.

We will not modify, revoke or terminate this Standby Letter of Credit without your written consent. This Standby Letter of Credit sets forth in full the terms of our undertaking, and such undertaking may not be modified, annulled or amplified by reference to any other document, instrument or agreement referred to herein or in which the Standby Letter of Credit is referred or to which the Standby Letter of Credit relates, and any such reference may not be deemed to incorporate herein by reference any document, instrument or agreement.

To the extent not contrary to the express terms hereof, this Standby Letter of Credit will be governed by the International Standby Practices ("**ISP98**"). This Standby Letter of Credit will be deemed to be a contract made under the laws of the state of Georgia and will, as to matters not governed by the ISP98, be governed by and construed in accordance with the laws of the state of Georgia.

Notices concerning this Standby Letter of Credit may be sent to a party by courier, certified mail, registered mail, facsimile, electronic transmission or similar communications facility to its respective address set forth herein. Any notice, demand, request or other communication is deemed to have been received by the party to whom it is sent at the time of its delivery. Each party may notify the other of any change of address in the manner provided above.

[ISSUING BANK]

By:_____
Authorized Signature

ANNEX 1

FORM OF SIGHT DRAFT

[Insert Place], [Insert Date]

Amount: [Insert Currency] [Insert Amount in Numbers]
[Insert Amount in Letters]

Drawn under Irrevocable Standby Letter of Credit No. _____ of [Insert Name of Issuing Bank]

At Sight

Pay to the Order of [Name of Beneficiary]

In reference to: Irrevocable Standby Letter of Credit No. _____, dated _____.

To: [Insert Name of Issuing Bank]
[Insert Address]

[BENEFICIARY]

By:_____

Title:_____

ANNEX 2

FORM OF CERTIFICATE

Re: [Insert Name of Agreement] dated _____, 20__ ("**Agreement**") between [Name of Account Party] ("[**Account Party**]") and [Name of Beneficiary] ("[**Beneficiary**]").

The undersigned, an officer or authorized representative of [Beneficiary], hereby certifies to [ISSUING BANK] ("**Bank**") with reference to irrevocable standby letter of credit no. ("**Standby Letter of Credit**"), issued by the Bank for the account of [Account Party] in favor of [Beneficiary] that:

(1) (Insert one of the following, as applicable)

Under the Agreement, Beneficiary is entitled to demand payment under the Standby Letter of Credit in the amount of the sight draft accompanying this certificate.

or

[Beneficiary] has received written notice from the Bank in accordance with the terms of the Standby Letter of Credit that the Bank has elected not to extend the Expiry Date of the Standby Letter of Credit for an additional period past its then Expiry Date and the Account Party has failed to deliver a substitute letter of credit in accordance with the terms of the Agreement.

(2) The undersigned is an officer or authorized representative of [Beneficiary] and is authorized to execute and deliver this certificate and to draw upon the Standby Letter of Credit.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Certificate as of this __ day of _____ , 20__.

[BENEFICIARY]

By:_____

Title:_____

ANNEX 3

FORM OF INSTRUCTION TO ASSIGN IN ENTIRETY

Re: Irrevocable Standby Letter of Credit No.

Ladies/Gentlemen:

For value received, the undersigned beneficiary hereby irrevocably assigns to:

[Name of Assignee]

[Address]

all rights of the undersigned beneficiary to demand payment under the above Standby Letter of Credit in its entirety.

By this assignment, all rights of the undersigned beneficiary in such Standby Letter of Credit are transferred to the assignee and the assignee will hereafter have the sole rights as beneficiary thereof. The Account Party will be responsible for all fees and expenses related to the assignment.

The Account Party will be responsible for all fees and expenses related to this assignment.

The Standby Letter of Credit is returned herewith and in accordance therewith we ask you to issue a new irrevocable Standby Letter of Credit in favor of the assignee with provisions consistent with the Standby Letter of Credit.

Sincerely,

[Beneficiary]

By:_____

Title:

EXHIBIT L – FORM OF GUARANTY

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

- Beneficiary and _____ ("**Company**"), [an Affiliate of Guarantor], have entered into a **Power Purchase Agreement for Firm Capacity, Associated Energy, and Ancillary Services from an Energy Storage System with Renewable Resource for All-Source Capacity Request for Proposals for 2029 – 2031 at #FacilityName#** dated as of _____, 20__ with Project Number GPC-#Project Number# (as amended, restated, supplemented or otherwise modified from time to time, the "**PPA**") regarding combined cycle facility located in #FacilityCity, #FacilityState, as further described in Exhibit A (*Facility Description and Additional Details*);
- Beneficiary has required, as an inducement to its entry into the PPA, that Guarantor deliver to the Beneficiary this Guaranty or other Eligible Collateral as and when required under the PPA;
- Guarantor qualifies as a Seller Guarantor under the PPA, and this Guaranty qualifies as Eligible Collateral under the PPA; and
- Guarantor will derive substantial direct and indirect benefit from the transactions contemplated by the PPA.

To induce Beneficiary to enter into and perform its obligations under the PPA, and for and in consideration of the foregoing premises, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Guarantor agrees as follows:

PART 1. DEFINITIONS

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

PART 2. GUARANTY

2.1. Guaranty. Guarantor unconditionally and irrevocably guarantees to Beneficiary and Beneficiary's successors and assigns, that Guarantor will make prompt and full payment of any obligations of Company to Beneficiary when due, whether by acceleration or otherwise, with any interest as may accrue under the PPA or under any other documents or instruments now or in the future evidencing, securing, or otherwise relating to the PPA ("**Guaranteed Obligations**"), except that Guarantor's liability under this Guaranty will in no event exceed the aggregate amount of Eligible Collateral that Company must provide in accordance with PPA Part 6 (*Performance Security*) (plus costs of enforcement of this Guaranty as provided in Section 4.4 (*Expenses*)). Guarantor must immediately pay for any obligation of Company upon demand by Beneficiary.

2.2. Guaranty Absolute.

2.2.1. Guarantor Guarantees. Guarantor absolutely guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the PPA, regardless of any law or regulation in effect now, or that may come into effect in the future, in any jurisdiction affecting any of the terms or the rights of Beneficiary regarding the PPA. This Guaranty constitutes a guarantee of payment and not of collection. The obligations of Guarantor under this Guaranty are primary obligations and are several from Company or any other Person, and Guarantor is

the principal obligor under this Guaranty. Guarantor's liability under this Guaranty will be direct and immediate and not conditional or contingent upon the pursuit of any remedies against Company or any other person, nor against securities or liens available to Beneficiary or Beneficiary's successors or assigns. **Guarantor's liability under this Guaranty will be irrevocable, absolute, and unconditional irrespective of, and Guarantor unconditionally and irrevocably waives any defenses it may now have or later acquire in any way relating to:**

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

B. any change, restructuring, or termination of the corporate structure or existence of Company or any of its subsidiaries, including Guarantor's disposal of any part of Guarantor's interest in Company, or Guarantor's alteration of Guarantor's investment in Company in any manner;

C. any lack of validity or enforceability, in whole or in part, of the Guaranteed Obligations, the PPA, or any agreement or instrument relating the Guaranteed Obligations or the PPA;

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

E. any failure, omission, delay, or lack on the part of Beneficiary to enforce, ascertain, or exercise any right, power, or remedy under or pursuant to the terms of the PPA, the Guaranteed Obligations, or this Guaranty;

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

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

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

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

J. except as provided in Section 2.3 (*Waivers and Acknowledgements*), any other circumstance whatsoever (including any statute of limitations) or any act of Beneficiary or any existence of or reliance on any representation by Beneficiary

that might otherwise constitute a legal or equitable defense available to, or a discharge of, Guarantor.

2.2.2. Guarantee Effectiveness. This Guaranty will continue to be effective or must be reinstated by Guarantor, as applicable, if at any time any payment of the Guaranteed Obligations should for any reason subsequently be asserted or declared to be void or voidable, or is unwound in any way under any state or federal law, including any provision of the U.S. Bankruptcy Code related to fraudulent conveyance or preference (each, a "**Voidable Transfer**"). Beneficiary or any other person is not required to repay or restore, in whole or in part, any Voidable Transfer, and any attempt to repay or restore any Voidable Transfer will be construed as though the payment had not been made.

2.2.3. No Release of Guaranty. No action that Beneficiary takes or fails to take in connection with the Guaranteed Obligations, or any security for the payment of any of the Guaranteed Obligations, nor any course of dealing with Company or any other person, will release Guarantor's obligations under this Guaranty, affect this Guaranty in any way, or give Guarantor any recourse against Beneficiary.

2.2.4. Enforcement following PPA Event of Default. In the case of an Event of Default under the PPA or regarding any of the Guaranteed Obligations, Guarantor agrees that Beneficiary will have the right to enforce its rights, powers, and remedies under the PPA and Guaranty or under any other instrument now or in the future evidencing, securing, or otherwise relating to the Guaranteed Obligations, and apply any payments or credits received by Company or Guarantor or realized from any security, in any manner and in any order as Beneficiary, in its sole discretion, sees fit, and all rights, powers, and remedies available to Beneficiary in that event will be nonexclusive and cumulative of all other rights, powers, and remedies provided under the PPA, this Guaranty, by law, or in equity. If the Guaranteed Obligations are partially paid at the election of Beneficiary or Beneficiary's successors or assigns, to pursue any of the remedies available to Beneficiary, or if the indebtedness is otherwise partially paid, this Guaranty will nevertheless remain in full force and effect, and Guarantor will remain liable for the entire balance of the Guaranteed Obligations even though any rights that Guarantor may have against Company may be destroyed or diminished by the exercise of the remedy.

2.3. Waivers and Acknowledgments.

2.3.1. Guarantor Notice Waiver. Guarantor unconditionally and irrevocably waives promptness, diligence, presentment, demand of payment, acceptance, notice of acceptance, protest, notice of dishonor, and any other notices regarding any of the Guaranteed Obligations and this Guaranty.

2.3.2. Guarantor Waiver of Guaranty and Acknowledgement of Continuing Obligations. Guarantor unconditionally and irrevocably waives any right to revoke this Guaranty and acknowledges that this Guaranty is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future. This Guaranty will extend and be applicable to any modification of the PPA.

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

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

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

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

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

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

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

2.5. Contribution, Indemnification, Reimbursement. Guarantor unconditionally, irrevocably, and absolutely waives all right of contribution, indemnification, reimbursement, or similar rights against Company regarding the Guaranty, whether the rights arise under an express or implied contract or by operation of law, and it is the intention of Guarantor and Company that Guarantor will not be deemed to be a "creditor" (as defined in U.S. Bankruptcy Code Section 101 or any other applicable law) of Company because of the existence of this Guaranty if Company becomes a debtor in any proceeding under the U.S. Bankruptcy Code or any other applicable law.

2.6. Agreement regarding Bankruptcy of Company. So long as any Guaranteed Obligations are owed to Beneficiary, Guarantor must not, without the prior written consent of Beneficiary,

commence, or join with any other person in commencing, any bankruptcy, reorganization or insolvency proceeding against Company.

PART 3. REPRESENTATIONS AND WARRANTIES

3.1. Guarantor hereby represents and warrants as follows:

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

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

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

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

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

PART 4. MISCELLANEOUS

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

4.2. Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty must be in writing and will be deemed to have been given when actually received if: (i) personally delivered; (ii) transmitted by facsimile, electronic, or digital

transmission method; or (iii) if sent by certified or registered mail, return receipt requested. In each case, notice will be to the contacts identified in this Section 4.2 (*Notices*) or to the other place and with the other copies as Beneficiary or Guarantor may designate for itself by written notice to the other under this Section 4.2 (*Notices*). Delivery by facsimile of an executed counterpart of a signature page to any amendment or waiver of any provision of this Guaranty will be effective as delivery of an original executed counterpart to the amendment or waiver.

Notice to GPC:

Georgia Power Company
c/o Southern Company Services, Inc.
Attn: Assistant Treasurer, BIN SC 1407
30 Ivan Allen Junior Boulevard, NW
Atlanta, GA 30308
G2GPCERG@southernco.com

With Copy to:

Georgia Power Company Legal Dept.
Attn: Commercial & Transactions, Bin 10180
241 Ralph McGill Blvd., N.E.
Atlanta, GA 30308

Notice to Guarantor:
#CompanyName
Attn: #IndividualName
#Title
#StreetAddress
#City, #State #ZipCode
#Email#

4.3. Delay and Waiver. No failure on the part of Beneficiary to exercise, and no delay in exercising, any right under this Guaranty will operate as a waiver any right under this Guaranty; nor will any single or partial exercise of any right under this Guaranty preclude any other or further exercise of the right under this Guaranty or the exercise of any other right. The remedies provided in this Guaranty are cumulative and not exclusive of any remedies provided by law.

4.4. Expenses. Guarantor agrees to pay or reimburse Beneficiary and any permitted assignees of Beneficiary on demand for its reasonable costs, charges, and expenses (including reasonable fees and expenses of counsel) incurred in connection with the enforcement of this Guaranty or caused by any breach by Guarantor of any of its obligations under this Guaranty, including any actions taken in any bankruptcy or insolvency proceedings, if Guarantor is required to pay under this Guaranty.

4.5. Entire Agreement; Amendments; Other Guarantees. This Guaranty and any agreement, document, or instrument attached to this Guaranty or referred to in this Guaranty integrate all the terms and conditions mentioned in or incidental to this Guaranty and supersede all oral negotiations and prior writings in respect to the subject matter of this Guaranty. In the event of any conflict between the terms and conditions of this Guaranty and any related agreement, document, or instrument, the terms and conditions of this Guaranty will prevail. This Guaranty may only be amended or modified by an instrument in writing signed by each of Guarantor and Beneficiary and any permitted assignees of Beneficiary. Without limiting the preceding in this Section 4.5 (*Entire Agreement; Amendments; Other Guarantees*): (i) this Guaranty will not release, modify, revoke, or terminate any other guaranty existing previously, now, or in the future executed by Guarantor; nor will any other guaranty previously, now, or in the future executed by Guarantor release, modify, revoke, or terminate this Guaranty; and (ii) all of Guarantor's liabilities and obligations and Beneficiary's rights and remedies under this Guaranty are in addition to and cumulative with those under any other guaranty executed by

Guarantor in favor of Beneficiary or any affiliate of Beneficiary on or about the Effective Date or at any other time.

4.6. Headings. The headings of the various Sections of this Guaranty are for convenience of reference only and will not modify, define, or limit any of the terms or provisions in this Guaranty.

4.7. Governing Law; Consent to Jurisdiction.

4.7.1. Governing Law. This Guaranty will be construed and interpreted, and the rights of the parties determined, in accordance with the laws of the state of Georgia, without giving effect to principles of conflicts of law that would require the application of the laws of another jurisdiction.

4.7.2. Consent to Jurisdiction. Guarantor irrevocably and unconditionally: (i) agrees that the exclusive jurisdiction for any suit, action, or other legal proceeding arising out of this Guaranty will be brought in the United States District Court for the Northern District of Georgia or in any Georgia State court of general jurisdiction in Fulton County, Atlanta, Georgia; (ii) consents to the jurisdiction of those courts in those suits, action, or proceeding; and (iii) waives any objection that the Person may have to the laying of venue of the suit, action, or proceeding in the court.[**Applicable Only to Foreign Guarantor:** Guarantor and Beneficiary further agree that a final judgment in any action or proceeding arising out of or relating to this Guaranty will be conclusive and may be enforced in any other jurisdiction within or outside the Untied States by suit on the judgment, a certified or exemplified copy of which will be conclusive evidence of the fact and the amount of indebtedness or liability therein described, or in any other manner provided by applicable law.]

4.7.3. [Applicable Only to Foreign Guarantor: Guarantor's Process Agent. Guarantor irrevocably designates, appoints and empowers [_____ Georgia, ____ United States of America] as its authorized agent to receive on its behalf and on behalf of its property service of copies of the summons and complaint and any other process which may be served in any action or proceeding between Beneficiary and Guarantor arising out of or relating to this Guaranty. The service may be made by mailing or delivering a copy of the process in care of the process agent, and Guarantor irrevocably authorizes and directs its designated process agent to accept the service on its behalf. Guarantor further agrees that failure by a process agent appointed in accordance with this section to notify Guarantor of the process will not invalidate the process or service or the proceeding concerned. Despite the preceding sentences, nothing in this Guaranty will affect the rights of either party to serve process in any other manner permitted by applicable law. Guarantor will maintain the process agent, or any other Person located within the State of Georgia as may be acceptable to Beneficiary, as its agent for service of process in the State of Georgia during the duration of this Guaranty and twelve months after, at Guarantor's sole cost and expense. If for any reason, the appointed process agent is no longer acting as process agent, Guarantor must promptly (and in any event within seven Days) appoint a replacement agent in the State of Georgia as its authorized agent to receive on its behalf and on behalf of its property, service of copies of the summons and complaint and any other process which may be served in any action or proceeding between Beneficiary and Guarantor arising out of or relating to this Guaranty. If Guarantor fails to appoint a replacement process agent as provided in this Section 4.7.3, Beneficiary may appoint the replacement process agent on behalf of Guarantor, at Guarantor's sole cost and expense.]

4.7.4. [Applicable Only to Foreign Guarantor: Payment in U.S. Dollars; Judgement Currency. This Guaranty is made by the Guarantor regarding a transaction in which the specification of payment in United States Dollars ("**Dollars**") and payment at the designated place of payment is of the essence, and Dollars will be the currency of accounting in all events.

The payment obligations of the Guarantor under this Guaranty will not be discharged by any amount paid in another currency or in another place, whether in accordance with a judgment or otherwise, to the extent that any amount paid on conversion to Dollars and transferred to the designated place of payment under normal banking procedures does not yield the amount of Dollars due under this Guaranty.]

4.7.5. [Applicable Only to Foreign Guarantor: Withholding Taxes.

A. Each payment by Guarantor to Beneficiary in accordance with this Guaranty must be made free and clear of, and without deduction or withholding for or on Beneficiary of, any present or future taxes, duties, assessments, fees, deductions, withholding, levies, imposts, or charges of whatsoever nature (other than taxes imposed on income or gross revenue), together with any liabilities (including penalties, interest and expenses) in regarding the preceding imposed or levied by or on behalf of the government of any jurisdiction(s) in which the Guarantor is organized, headquartered, or conducting business, or any political subdivision of the government or any authority or agency of the government having the power to tax ("**Withholding Taxes**"), unless the deduction or withholding is required by the laws of any jurisdiction(s) in which the Guarantor is organized, headquartered, or conducting business, or any province or political subdivision of the jurisdiction(s) or by the administrative practice of any taxing authority. If any such deduction or withholding is required, or if no such deduction or withholding is required but Withholding Taxes are otherwise payable concerning the payment, Guarantor must:

(i). Pay any additional amount to Beneficiary as may be necessary to ensure that Beneficiary receives and retains a net sum after such deduction, withholding, or payment of Withholding Taxes (including any deduction, withholding, or payment of Withholding Taxes regarding the additional amount), free from any liability regrading the Withholding Taxes, equal to the sum that Beneficiary would have received and retained had no such deduction or withholding of Withholding Taxes been made or required to be made and had no such Withholding Taxes been payable;
(ii). Deduct the Withholding Taxes from the payment:
(iii). Pay the full amount deducted to the relevant authority on account of the Withholding Taxes within the time provided under, and otherwise in accordance with applicable law or any jurisdiction; and
(iv). Promptly after the date the Withholding Taxes are due under the applicable law of any jurisdiction, deliver to Beneficiary the forms prescribed by the relevant authority of the Withholding Taxes.

B. Without duplication of Section 4.7.5.a above, Guarantor agrees to indemnify and hold harmless Beneficiary for any Withholding Taxes that may become payable by Beneficiary concerning any payment made by Guarantor under this Guaranty. Without limiting the generality of the preceding sentence, if:

(i). Guarantor or Beneficiary is assessed or reassessed by any applicable taxing authority for any Withholding Taxes regarding any payment made by the Guarantor under this Guaranty, Guarantor must pay the Withholding Taxes together with interest or penalties on the Withholding Taxes to the taxing authority on behalf of Beneficiary and without recourse against Beneficiary within 30 Days of demand by Beneficiary; or
(ii). Beneficiary pays any Withholding Taxes regarding any payment made by Guarantor under this Guaranty, Guarantor agrees to indemnify Beneficiary upon receipt of the notice called or in Section 4.7.5.D. below.

C. Without duplication of Section 4.7.5.A. or B. above, Guarantor agrees to indemnify and hold harmless Beneficiary for any additional taxes on net income that

Beneficiary may be obligated to pay because of the receipt by it or payment by Guarantor of any amount under this Section 4.7.5.

D. Beneficiary will promptly notify Guarantor of any Withholding Taxes that Beneficiary has paid or received an assessment or reassessment from any applicable taxing authority and for which the Guarantor is required to indemnify it in accordance with this Section 4.7.5 and of the amount payable to it by Guarantor this Section 4.7.5, and Guarantor will indemnify Beneficiary within 60 Days of receipt of such notice. Beneficiary will reasonably determine the amount payable to it, will contest in good faith any taxes that Beneficiary believes in good faith are not assessable, and the determination will, absent manifest error, be final and binding on Guarantor.

E. Guarantor's obligations under this Section 4.7.5 will survive for one year following termination of this Guaranty and the payment of all amounts payable under other provisions of this Guaranty.

4.7.6. [Applicable Only to Foreign Guarantor: Waiver of Objection to Venue. GUARANTOR IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT GUARANTOR MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING BETWEEN THEM ARISING OUT OF OR RELATING TO THIS GUARANTY BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA, AND HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.]

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

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

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

4.9. Execution and Attestation.

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

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

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

#GuarantorLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT M –VIE CERTIFICATION

AGREEMENT – Power Purchase Agreement for Firm Capacity, Associated Energy, and Ancillary Services from an Energy Storage System with Renewable Resource for All-Source Capacity Request for Proposals for 2029 – 2031 at #Facility Name# dated #Month #Day, #Year between Georgia Power Company ("**GPC**"), and **#SellerLegalName#** ("**Seller**") ("**PPA**"). Capitalized terms used herein will have the meaning assigned in the Agreement.

The undersigned individual, being the Chief Financial Officer of Seller[1] and having responsibilities for financial accounting matters associated with this PPA, certifies that this PPA WILL (_____)/WILL NOT (_____) require Seller, over the Term and based on U.S. Generally Accepting Accounting Principles in effect as of the date of this certificate, to deconsolidate on its books and records any assets, liabilities, cash flow, profits, or losses of Seller as a result of GPC being determined to be the Primary Beneficiary. My determination of the most likely accounting treatment of this transaction results from my personal consideration after necessary discussions with relevant officers of Accounting Standards Codification ("**ASC**") Topic 810, Consolidation, and the following factual matters:

1) Seller's accounting policies, procedures, and internal controls are sufficient to provide GPC with an appropriate basis for confirming the information contained herein.

   _____Yes
   _____No (please explain)

   *Explain:*_____

2) Seller qualifies for one of the scope exceptions listed in paragraphs 810-10-15-12 and 810-10-15-17 of ASC Topic 810.

   _____Yes
   _____No (please explain)

   *Explain:*_____

3) Seller is financed with equity equal to or greater than 10% of Seller's total assets per paragraphs 810-10-25-45 to 47 of ASC Topic 810.

   _____Yes
   _____No (please explain)

   Explain:_____

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

[1] If Seller's business structure does not designate an officer with this or a similar title, Seller must provide written documentation affirming the authority of the individual who attests to this certification.

expenses).

_____Yes
_____No (please explain)

Explain:_____

5) The PPA reduces variability in the fair value of Seller's assets, for example by absorbing fuel or electricity price risk.

_____Yes
_____No (please explain)

Explain:_____

6) The PPA Term is for greater than 50% of the remaining economic life of the unit.

_____Yes
_____No

7) The PPA is for substantially all of the proposed Facility's productive output.

_____Yes
_____No

8) GPC and its affiliates participated significantly in the design or redesign of the Facility.

_____Yes
_____No

9) The percentage that the Facility's fair value represents, of the fair value of the proposed Seller's total assets, is approximately;

_____%

10) The Facility is essentially the only source of payment for specified liabilities or specified other interest (there is specific debt associated with the Facility).

_____Yes
_____No

[CERTIFICATION ON NEXT PAGE]

Certification

The above information (and any attachments) has been completed in full and agrees with our records as of the date of this Certification.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT N – FINANCE LEASE CERTIFICATION

CERTIFICATION AS TO CERTAIN FACTUAL STATEMENTS RELATED TO THE PROPOSED TRANSACTION WITH RESPECT TO FINANCE LEASE TREATMENT

*(While completion of this certification is a requirement, the assertions in this certification are relevant only if a lease is identified in accordance with Accounting Standard Codification ("**ASC**") Topic 842, Leases. Please complete the Finance Lease certification for each lease component identified)*

AGREEMENT – ***Power Purchase Agreement for Firm Capacity, Associated Energy, and Ancillary Services from an Energy Storage System with Renewable Resource for All-Source Capacity Request for Proposals for 2029 – 2031*** dated #Month #Day, #Year between Georgia Power Company ("**GPC**") and **#SellerLegalName#** ("**Seller**") ("**PPA**"). Capitalized terms used in this certification have the meaning assigned in the PPA.

The undersigned individual, being the Chief Financial Officer[1] of Seller and **[having responsibilities/based on information I have received from individuals responsible]** for financial accounting matters arising from this PPA, based on my personal consideration after necessary discussions with relevant officers of factual matters hereby certifies the following based on my understanding of ASC Topic 842, Leases.

1. The PPA DOES (_____)/DOES NOT (_____) transfer ownership of the Facility at or by the end of the PPA Term as described in paragraph 842-10-25-2(a) of ASC Topic 842.

2. The PPA DOES (_____)/DOES NOT (_____) contain a purchase option for the Facility that is reasonably certain to be exercised as described in paragraph 842-10-25-2(b) of ASC Topic 842.

3. The PPA Term IS (_____)/IS NOT (_____) equal to the major part or 75% or more of the estimated remaining economic life of the Facility offered as described in paragraph 842-10-25-2(c) of ASC Topic 842.

4. The present value of the minimum lease payments allocated to the Facility at the beginning of the PPA Term IS (_____)/IS NOT (_____) greater than or equal to substantially all or 90% of the fair value of the Facility offered as described in paragraph 842-10-25-2(d) of ASC Topic 842.

5. The Facility IS (_____)/IS NOT (_____) of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the PPA Term as described in paragraph 842-10-25-2(e) of ASC Topic 842.

If I have responded in the affirmative to one or more of the above factual statements, I have attached a good faith statement of the dollar amounts that GPC would be required to capitalize and the residual value of the Facility at the end of the Term.

[CERTIFICATION ON NEXT PAGE]

[1] If Seller's business structure does not designate an officer with this or a similar title, Seller must provide written documentation affirming the authority of the individual who attests to this certification.

Certification

The above information (and any attachment) agrees with Seller's records as of the date of this Certification.

#SellerLegalName#

By: _____

Name Printed: _____

Title: _____

Date: _____

EXHIBIT O – TRANSFER OF INFORMATION ACKNOWLEDGEMENT

TRANSFER OF INFORMATION ACKNOWLEDGEMENT

#SellerLegalName# ("**Seller**") and Georgia Power Company ("**GPC**") have entered into the **Power Purchase Agreement for Firm Capacity, Associated Energy, and Ancillary Services from an Energy Storage System with Renewable Resource for for All-Source Capacity Request for Proposals for 2029 – 2031 at GPC-#ProjectID# (#FacilityName#)** ("**PPA**") dated as of _____, 202__. The PPA contemplates that Seller will provide to GPC or GPC's affiliate Southern Company Services, Inc. ("**SCS**") as agent for the transmission-owning subsidiaries of Southern Company (GPC, Alabama Power Company, and Mississippi Power Company) certain information that could be considered non-public information that potentially has implications under the Federal Energy Regulatory Commission ("**FERC**") Standards of Conduct. Seller acknowledges that the information is being provided for the purposes of operational implementation and administration of the PPA (which includes conducting GPC's system operations and dispatch functions) and will be used by GPC or SCS individuals in both Transmission/Distribution and energy affiliate/wholesale marketing unit functions under the FERC Standards of Conduct.

The individuals within the Southern Company organizations indicated above may use the information only for purposes of implementing and administering the PPA (including conducting GPC's system operations and dispatch functions). Seller understands that the information will not be used or disseminated in any manner contrary to the confidentiality provisions in the PPA or in violation of the FERC Standards of Conduct.

Seller's provision of this information has not been and is not being provided in exchange for any preferential treatment, either operational or rate-related, by SCS or by any of the transmission-owning subsidiaries of Southern Company. Seller also acknowledges that Seller is not providing the information under duress or coercion. In accordance with FERC requirements, SCS may post on Southern Company's Open Access Same-time Information System (OASIS) the fact of Seller's consent to the provision of the information specified above to certain employees that may be employed within organizational units deemed to be energy affiliates/wholesale marketing units under the Standards of Conduct.

Acknowledged on behalf of Seller by Seller's authorized representative signing below:

#SellerLegalName#

By: _____

Name Printed: _____

Title: _____

Date: _____

EXHIBIT P – ENVIRONMENTAL COMPLIANCE CERTIFICATION

CERTIFICATION OF ENVIRONMENTAL COMPLIANCE

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

The undersigned individual, being the [●] of Seller and having responsibilities for environmental compliance and reporting matters associated with this PPA, certifies to the following:

1. Since the date of Seller's prior Certification of Environmental Compliance, there have been no changes in the design of the Facility that resulted in or, to the best of the knowledge of the undersigned after reasonable inquiry, are expected to result in, additional impacts to the environment that have not been previously disclosed in writing to GPC.
   _____Yes
   _____No (please explain)
   Explain:_____

   (a) If "no," a figure set or plan sheets that highlights such changes is attached.
   (b) If "no," copies of all documentation that all necessary Permits have been obtained and/or that the appropriate Governmental Authority coordination has occurred to legally allow for such impacts is attached.
2. A list of Permits for the Facility that were obtained (opened) or Governmental Authority prescriptions that were issued since the previous Certification is attached.
3. A list of Permits for the Facility that were applied for but have not yet been obtained (opened) since the previous Certification is attached.
4. A list of any notices of violation (NOV) that were issued with respect to Seller [or in connection with the Facility], including: (i) the Governmental Authority that issued the NOV, (ii) the status of remediation of the violation; and (iii) if remediation has not been completed, the duration anticipated for resolution is attached. Copies of any NOVs are also attached.
5. Attached is a list identifying (by name and address) any adjacent landowner, lessee or neighbor complaints against Seller or the Facility, as well as: (i) a general description of the complaint; and (ii) plans that Seller took to resolve the complaint or, if not yet resolved, what actions Seller has taken to date, or intends to take, to resolve the complaint, along with a timeline for completing such actions.
6. A list of any Permits and/or other Governmental Authority prescribed actions that have been fulfilled and/or closed since the previous Certification is attached.
7. Except as already referenced or included in an attachment to this Certification, there are no other documents, notices or correspondence from any Governmental Authority indicating that the Facility and the Site is not in compliance with or is not in good standing under, and Environmental Laws, Permit or other Governmental Authority prescribed actions.

Confirmation
The above information (and any attachments) has been completed in full and agrees with our records as of the date of this Certification.
#SellerLegalName#

By: _____
Name Printed: _____
Title: _____
Date: _____

EXHIBIT Q – NOTICES

Address for delivery of Eligible Collateral for Performance Security and Upgrade Security in accordance with PPA Section 6.5 (*Delivery of Eligible Collateral for Performance Security*) and PPA Section 7.4 (*Grid Cost Improvements*):

Georgia Power Company
c/o Southern Company Services Inc.
Attn: Assistant Treasurer, BIN SC1407
30 Ivan Allen Jr. Blvd.
Atlanta, Georgia 30308

Addresses for delivery of notices to the Parties in accordance with PPA Section 20.4 (*Notice*):

In accordance with PPA Section 20.4, all notices must include the GPC project identification number referenced in this PPA's title and the Facility name.

Notice to GPC:

Georgia Power Company
Attention: #GPCContact Name
241 Ralph McGill Boulevard N.E.
BIN #BinNumber#
Atlanta, Georgia 30308
Email: #GPCNoticeEmail

With Copy To:

Georgia Power Company Legal Dept.
Attn: Commercial & Transactional Counsel
Bin 10180
241 Ralph McGill Blvd., N.E.
Atlanta, GA 30308

Notice to Seller:

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

Pro Forma Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from a Standalone Energy Storage System for All-Source Capacity Request for Proposals for 2029 – 2031 between Georgia Power Company and #SellerLegalName#

This agreement contains confidential information for use by Georgia Power Company, 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 PPA uses the defined terms identified in this *Schedule of Defined Terms* or in the body of this PPA and the rules of construction identified in Section 20.17 (*Contract Interpretation*).

ACP: See *Annual Capacity Price*.

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

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

AGC: See *Automatic Generation Control*.

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

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

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

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

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

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

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

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

energy produced by the Facility.

Annual Capacity Price (ACP): The annual price to be paid by GPC to Seller for GPC's purchase of the Facility's capacity, as set forth in Table C-1 in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*).

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

ASC: The FASB Accounting Standards Codification.

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

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

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

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

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

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

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

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

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

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

Claim: Any loss, damage, cost, expense, or liability (on an After-Tax Basis) for any damage or claim (including any demand, suit, settlement, judgment, penalty, fine, proceeding, or action of any kind) for: (i) personal or bodily injury (including death); (ii) property damage (including loss of use); (iii) defects; (iv) infringement; (v) monetary damage or expense; or (vi) equitable relief, including all Claim expenses (e.g., actual attorneys' fees reasonably incurred; investigation, defense, litigation, court, arbitration, or mediation costs; and expert, consultant, arbitrator, or mediator fees or expenses and bond expense).

Commercial Operation: The Facility's ability to meet the requirements of Section 7.1.5 (*Commercial Operation*) on a reliable basis.

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

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

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

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

Commission Certificate for this PPA.

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

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

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

CPT: See *Central Prevailing Time*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Emergency Condition: Defined in the IA.

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

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

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

or mandatory; or (ii) any environmental benefit GPC otherwise would have realized from or related to the Facility if GPC, rather than Seller, had constructed, owned, or operated the Facility, as applicable. Environmental Attributes do not include: (I) any federal, state, or local tax attribute arising from ownership of the Facility, including any investment tax credit (ITC), production tax credit (PTC), or depreciation deduction; (II) any grant in lieu of ITC or any similar financial payment or grant regarding the Facility or the metered electric energy output from the Facility; or (III) the metered electric energy produced by the Facility.

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

EPA: The U.S. Environmental Protection Agency.

ET: See *Eastern Time*.

ESS: See *Energy Storage System*.

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

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

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

FASB: Financial Accounting Standards Board.

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

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

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

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

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

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

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

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

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

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

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

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

Grid Charging: Charging the ESS from the Electric System.

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

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

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

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

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

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

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

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

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

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

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

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

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

kV: Kilovolt(s).

kW: Kilowatt(s).

kWh: Kilowatt-hours (AC).

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

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

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

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

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

MCF: See *Monthly Capacity Fee*.

MCP: See *Monthly Capacity Payment*.

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

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

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

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

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

$$MCP = MCF - MCR$$

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

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

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

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

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

MVF: See *Monthly Value Factor*.

MW: Megawatt alternating current (AC).

MWh: Megawatt-hour (AC).

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

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

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

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

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

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

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

Operating Representatives: Those individuals appointed by each of the Parties to the Operating Committee in accordance with Section 10.6 (*Operating Committee*).

Party or Parties: Either GPC or Seller or both.

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

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

Performance Security: Security in the form of Eligible Collateral that Seller must deliver to GPC to secure Seller's due performance of Seller's PPA obligations, as required under Section 6.1 (*Performance Security*) and Part 1 of Exhibit A-2 (*Performance Security and Liquidated Damages*).

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

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

Point of Interconnection (POI): The point of connection between the STT and the Facility , as identified in Table A-1 of Exhibit A (*Facility Description and Additional Details*) and further described in the IA.

PPA: This Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from a Standalone Energy Storage System between GPC and Seller.

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

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

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

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

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

RCOD: See *Required Commercial Operation Date*.

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

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

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

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

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

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

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

SDDC: See *Storage Device Design Capacity*.

SDDD: See *Storage Device Discharge Duration*.

SDOE: See *Storage Device Operating Energy*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STT: See *Southern Transmission Territory.*

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

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

Technical Limits: The operational limits and constraints described in Exhibit F (*Facility Operating and Dispatching Requirements*).

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

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

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

Test Charge Energy Price: Equals AIER.

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

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

(Test Discharge Energy Price = AIER x 0.90).

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

Threshold Amount: As defined in Section 17.1.2 (*Excess Change of Law Capital Expenditures*).

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

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

Upgrade Security: A Letter of Credit provided by Seller if GPC determined that Electric System improvement costs beyond the POI are necessary to deliver the full output of the Facility to GPC's customers, upon which security GPC may draw in accordance with Section 7.4 (*Grid Cost Improvements*).

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

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

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

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

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

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

PART 1 TERM OF AGREEMENT

1.1 Term. Subject to applicable law and any earlier termination per Section 1.3 (*Conditions Subsequent*) or Section 16.3 (*Remedies*), this PPA becomes effective on the Effective Date and continues for the Term.

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

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

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

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

1.3.2. FERC Acceptance with Modification. Despite the preceding provisions, if, before 285 Days after the granting of a Commission Certificate, FERC issues a valid order accepting this PPA subject to material modification or condition(s), including acceptance subject to refund following an administrative proceeding, then the adversely affected Party or Parties (as applicable) will have the right to terminate this PPA if the material modification or condition(s) are not acceptable. By no later than 15 Days after the issuance date of a FERC order, Seller must provide GPC with a copy of the FERC order along with written notice of whether the FERC order is subject to material modification or condition(s) that adversely affect Seller and, if so, whether the material modification or condition(s) are acceptable to Seller. If Seller fails to provide the written notice before the 15th Day, then Seller will be deemed to have accepted any FERC order accepting this PPA subject to material modification or condition(s).

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

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

1.3.3. Commission Certificate Target Date Conditions.

(i) GPC's Initial Termination Rights for Commission Certificate Target Conditions. If: (a) after the Commission Certificate Target Date the Commission has not approved this PPA through a Commission Certificate, or (b) the Commission has issued a Commission Certificate that is subject to material qualification or condition(s) that adversely affect GPC, then GPC may terminate this PPA upon written notice to Seller, so long as the notice is delivered to Seller by no later than 30 Days after (i) the Commission Certificate Target Date, or (ii) the date the Commission issued the Commission Certificate that is subject to material qualification or condition that adversely affect GPC. If Commission certification is delayed for reasons not attributable to Seller and GPC does not elect to terminate this PPA, Seller will be entitled to an RCOD extension.

(ii) Motion to Reconsider or Appeal; Extended PPA Termination Rights for Commission Certificate Target Conditions. If, within 30 Days after the issuance of the Commission Certificate, either Party files a motion to reconsider with the Commission or an appeal with Fulton County Superior Court regarding the issuance or denial of the

Commission Certificate, GPC may terminate this PPA upon written notice to Seller, so long as the notice is delivered to Seller no later than 80 Days after the Commission Certificate Target Date.

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

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

1.3.4. Revocation, Qualifications, or Conditions. Despite Section 1.3.3 (*Commission Certificate Target Date Conditions*), if, at any time during the Term the Commission issues an amendment to the Commission Certificate regarding this PPA ("**Amended Commission Certificate**") that imposes a material qualification or condition that adversely affects GPC and that is not acceptable to GPC, GPC will have the right to terminate this PPA, unless GPC and Seller agree to amend this PPA in accordance with Section 1.3.6 (*PPA Amendment*). Within 15 Days after the issuance of the Amended Commission Certificate, GPC will provide Seller with written notice of whether the Amended Commission Certificate is subject to material qualification or condition and, if so, whether the material qualification or condition is acceptable to GPC. If GPC does not provide notice within the 15-Day period, the Amended Commission Certificate will be deemed to be acceptable to GPC. Upon a termination in accordance with this Section 1.3.4: (i) neither Party will have any further liability to the other Party under this PPA; and (ii) GPC will promptly return to Seller any unused portion of Performance Security or Upgrade Security, if applicable.

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

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

PART 2 REPRESENTATIONS, WARRANTIES, AND COVENANTS

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

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

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

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

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

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

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

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

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

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

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

2.1.11. Legal Right to Possess and Operate Facility and Deliver Capacity, Energy Storage Services, and Ancillary Services. Except as may be allowed under Sections 2.1.10 (*Sale, Lease,*

Transfer, or Other Disposal of Business or Assets Resulting in Material Adverse Effect), 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*), or any other provision of this PPA, Seller must maintain the legal right to and will possess and operate the Facility and deliver the capacity, energy storage services, and Ancillary Services of the Facility to GPC in accordance this PPA.

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

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

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

2.1.15. Extreme Weather Technical Requirements. Throughout the Term, the Facility will comply with NERC EOP-12-1 (*Extreme Cold Weather Preparedness and Operations*).

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

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

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

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

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

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

2.2.6. Creditworthiness and No Bankruptcy Proceedings. GPC is Creditworthy (determined solely by clause (i) of the definition of Creditworthy) and there are no bankruptcy proceedings pending or being contemplated by it or, to its knowledge, threatened against it.

PART 3 PRESERVATION OF TERMS; CONSENTS; TAXES

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

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

(i) FERC Standard of Review. In any proceeding before FERC involving this PPA, the Parties will request that FERC review all aspects of this PPA under the "public interest" application of the "just and reasonable" standard of review in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), each clarified by NRG Power Marketing LLC v. Maine Public Utility Commission, 130 S. Ct. 693 (2010).

3.2 Other Approvals. Throughout the Term, each Party will diligently seek to obtain, maintain, pursue, or cause to be pursued, comply with, and, as necessary, renew or modify all other Consents required to be possessed by the Party in a manner that is reasonably expected to enable the Party to perform its PPA obligations. Each Party agrees to assist and support the other Party, in a timely manner and to the extent reasonably requested by either Party, in obtaining the Consents. Upon request, a Party will provide a copy of Consents to the requesting Party.

3.3 Taxes.

3.3.1. Payment by Seller. Subject to Section 17.1 (*Change of Law*), Seller will be responsible for, and must pay, or cause to be paid, all Taxes on or regarding: (i) the Facility, including its development, permitting, design, engineering, procurement, construction, testing, startup,

ownership, leasing, financing, operation, and maintenance; and (ii) the production, storage, and delivery of energy and Ancillary Services to be provided to GPC arising, in the case of energy, before the time of Seller's delivery of energy to GPC at the POI, or, in the case of Ancillary Services, before the time the Ancillary Services are made available to GPC.

3.3.2. Payment by GPC. GPC will pay or cause to be paid all Taxes on or regarding: (i) energy received by GPC arising at and after the time the energy is delivered by Seller to the POI; and (ii) Ancillary Services received by GPC arising at and after the time the Ancillary Services are made available to GPC. The Taxes will include sales, use, excise, or other similar Taxes on the sale to GPC and purchase from Seller of capacity, energy, and Ancillary Services in accordance with this PPA.

3.3.3. Efforts to Implement PPA Provisions to Minimize Taxes. Each Party will use reasonable efforts to implement and administer the PPA provisions to minimize Taxes on the other Party so long as neither Party is materially adversely affected by such efforts.

3.3.4. GPC Reimbursement or Deduction for Taxes. If Seller is required by law or regulation to remit or pay Taxes that are GPC's responsibility under this PPA, Seller may include the Taxes in the next Monthly Invoice and GPC will remit payment for the applicable Taxes in accordance with Part 5 (*Billing and Collections*). Conversely, if GPC is required by law or regulation to remit or pay Taxes that are Seller's responsibility under this PPA, GPC may deduct those Taxes from the sums otherwise due to Seller under this PPA on an After-Tax Basis. Any refund associated with the Taxes will be handled in the same manner. Nothing in this PPA will obligate or cause a Party to pay or be liable to pay any Taxes from which the Party is exempt under applicable law.

PART 4 SALE AND DELIVERY OF CAPACITY

4.1 Agreement to Sell and Purchase.

4.1.1. Sale and Purchase Obligations During the Term. From the Delivery Commencement Date through the end of the Term, but subject to the terms of this PPA, Seller must sell to GPC: (i) the entire electrical capability of the Facility, net of any Station Service; and (ii) all associated energy storage services and Ancillary Services. The receipt and delivery of to the POI includes the transfer to GPC of all Ancillary Services associated with the energy. Seller must make available and provide to GPC all Ancillary Services as instructed by GPC at all power output levels and during periods that the Facility is not actively delivering energy. The Monthly Capacity Payment (subject to the Monthly Capacity Reduction in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) is the exclusive compensation owed to Seller for capacity, energy storage services, and Ancillary Services under this PPA. GPC will have full discretion to dispatch the ESS to cause energy to be stored in the ESS or sent to the POI.

4.1.2. Dispatch and Energy Delivery. GPC will send AGC Setpoint signals every six seconds to the ESS. GPC retains full control of energy delivery, whether through AGC or specific directives from GPC, from the ESS.

4.1.3. Station Service. Seller is responsible for all Station Service at Seller's expense. If the Facility is located within the state of Georgia, Seller must arrange Station Service for the Facility in accordance with the Georgia Territorial Electric Service Act (O.C.G.A. §§ 46-3-1 through 46-3-15). Seller must separately meter Auxiliary Operational Load at all times, and Auxiliary Operational Load will not be netted as part of Charging Energy or Discharging Energy. Seller will be responsible for all costs associated with Station Service used for the operation of equipment (e.g. power conversion stations) during periods when the ESS is not charging or discharging (e.g. idle).

4.1.4. Delivery of Energy; Risk of Loss; Balancing Services. Seller must deliver capacity and energy from the Facility to GPC at the POI, subject to GPC's provision of charging energy. The risk of loss of Charging Energy will pass from GPC to Seller at the POI and the risk of loss of Discharging Energy will pass from Seller to GPC at the POI. The Facility will interconnect to the STT at the POI and must be situated such that GPC can provide balancing services and Grid Charging under the Southern OATT. GPC will be responsible for providing generator balancing services regarding the

SBAA and Southern OATT necessary for the receipt of energy in accordance with GPC's dispatch instructions and for any associated costs.

4.1.5. Unavailability. Seller must promptly and accurately communicate to GPC any Facility outage, derate, or other operational limitation via GPC's data systems and email as specified in the Operating Procedures. GPC will make the final determination of whether an Unavailability Period impacts any Performance Metric for any Day.

4.1.6. GPC's Dispatch Right for Storage Device Design Capacity and Ancillary Services. GPC will be entitled to dispatch and receive, and if dispatched by GPC, Seller must deliver, up to the SDDC and all Ancillary Services associated with the ESS, subject to the Interconnection Limit, Technical Limits, and dispatch procedures set forth in Exhibit E (*Facility Operating and Dispatching Requirements*).

4.1.7. Reserved.

4.1.8. No Sale of Capacity, Energy, or Ancillary Services to a Third Party. Seller must not sell any of the capacity, energy, energy storage services, or Ancillary Services associated with the ESS to any Person other than GPC, including the sale of any energy not dispatched by GPC.

4.2 Calculation of Monthly Capacity Payments. Subject to the terms of this PPA, GPC will pay Seller a Monthly Capacity Payment calculated in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown)*, subject to the Monthly Capacity Reduction in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*). Other than the Monthly Capacity Payments, GPC will not owe Seller any payment or other compensation for the Facility's capacity, energy storage services, or Ancillary Services.

4.2.1. No Seller Entitlement to Payment or Other Compensation. GPC will not owe Seller any payment or other compensation for energy losses associated with Round-Trip Efficiency of the ESS.

PART 5 BILLING AND COLLECTIONS

5.1 Capacity Billing and Payment.

5.1.1. Seller Invoices. Subject to Section 5.2 (*Billing Disputes and Final Accounting*), by no later than the 10th Day of each Month (commencing with the first Month after the Delivery Commencement Date), Seller must send to GPC an invoice stating the Monthly Capacity Payment, including any Monthly Capacity Reduction, for the immediately preceding Month ("**Monthly Invoice**") under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*). If the 10th Day is not a Business Day, Seller must send to GPC the applicable Monthly Invoice by no later than the Business Day succeeding the 10th Day. The invoice must also specify any other payment required to be made by either Party in accordance with this PPA.

5.1.2. GPC Invoices. By no later than the 10th Business Day of each Month (commencing with the first Month after the Delivery Commencement Date), GPC will send to Seller an invoice stating any amount that is required to be paid by Seller to GPC, including, if applicable, any Monthly Capacity Reduction for the immediately preceding Month or annual true-up. If the 10th Day is not a Business Day, GPC will send Seller the applicable Monthly Invoice by no later than the Business Day succeeding the 10th Day.

5.1.3. GPC Invoice Payments. GPC will pay all Monthly Invoices on or before the 20th Day after GPC's receipt of the Monthly Invoice. If the 20th Day is not a Business Day, then GPC may pay the Monthly Invoice by the Business Day succeeding the 20th Day. Subject to Sections 5.1.4 (*Net Payment or Net Bill*) and 5.2 (*Billing Disputes and Final Accounting*), GPC will pay Seller in accordance with the Monthly Invoice by the due date in immediately available funds through wire transfer of funds to an account designated by Seller, or other means acceptable to Seller. Interest on unpaid amounts will accrue from the date the payment was due at a rate equal to the Interest Rate. Each Monthly Invoice will contain a statement explaining in reasonable detail how the invoice was calculated in accordance with Sections 4.2 (*Calculation of Monthly Capacity Payments*).

5.1.4. Net Payment or Net Bill. GPC may provide a net payment or net bill, whichever is applicable, that consolidates amounts owing to Seller with amounts owing to GPC.

5.2 Billing Disputes and Final Accounting.

5.2.1. Payment of Undisputed Amounts. If GPC questions or disputes the amount or propriety of any payment Seller claims to be due under this PPA, GPC will pay Seller any amount not in dispute but may withhold any amount disputed in good faith until after the settlement of the question or contest in accordance with this Section 5.2.

5.2.2. Billing Dispute Notice. If GPC questions or disputes the correctness of any charge or credit, GPC will provide Seller with written notice of the amount and the basis for GPC's question or dispute. Seller must: (i) promptly review the questioned charge or credit; and (ii) notify GPC, by no later than 20 Days after the date Seller receives GPC's notice, of any error in Seller's determination of amounts owed by GPC; and (iii) if applicable, issue an amended invoice for any payment that GPC is required to make regarding the re-determination. If GPC disputes in good faith Seller's amended invoice amount, then the matter will be resolved in accordance with Part 19 (*Dispute Resolution*) applicable to Billing Disputes. To the extent Seller disagrees with GPC's basis for questioning the original invoice, Seller must provide a written explanation of Seller's position.

5.2.3. Time for Permitted Disputes. Seller will have until 90 Days after the date of a Monthly Invoice to: (i) correct the Monthly Invoice for payment due for the Monthly Capacity Payment; and (ii) deliver a corrected Monthly Invoice to GPC. GPC will have until the end of one year after its receipt of any adjusted Monthly Invoice to dispute the correctness of any charge or credit made to GPC on the invoice. If within the one-year period, GPC has made payment under an invoice and later disputes the correctness of the invoice, Seller will not be required to refund any payment received from GPC until the time as it is finally determined that Seller's invoice was in error.

5.3 Interest. If either Party does not make a payment required by this PPA when due, then interest at the Interest Rate from the date the overdue payment was due until the overdue payment, together with interest, is paid, will be added to the due payment. If either Party makes a payment in accordance with an invoice that is later determined to have been incorrect, then interest at the Interest Rate from the date the overpayment was made will be added to the overpayment until the overpayment, together with interest, is refunded to the Party. Remittance received by mail, if mail is a means of payment acceptable to a Party owed payment, will be accepted without interest charges if the payment is postmarked on or before the due date. If the due date of any payment falls on a Day other than a Business Day, the next succeeding Business Day will be the last Day on which payment can be postmarked without interest charges being assessed. Despite this Section 5.3, no interest will be paid regarding any Monthly Capacity Reduction except to the extent the applicable reduction or true-up was not correctly calculated or invoiced in accordance with this PPA.

5.4 Billing and Payment Records. Each Party will, until the end of one year after its receipt of any invoice, make available to the other Party, and each Party may audit, the books and records of the other Party as are necessary for the Party to verify the calculation of the Monthly Capacity Payments and any Monthly Capacity Reduction under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*), and any other invoice, charge, or payment demand made concerning this PPA.

PART 6 PERFORMANCE SECURITY

6.1 Performance Security. Simultaneous with the execution of this PPA, if Seller is not Creditworthy, Seller must deliver to GPC Eligible Collateral in an amount equal to the Performance Security required by Exhibit A-2 (*Performance Security and Liquidated Damages*). Seller must maintain Performance Security throughout the Term and adjust its Eligible Collateral in accordance with Exhibit A-2. If: (i) any portion of the Eligible Collateral that GPC is then holding is in the form of a Seller Guaranty, and (ii) a Material Adverse Change occurs regarding Seller Guarantor, then by no later than three Banking Days after the Material Adverse Change occurs, Seller must deliver to GPC replacement Eligible Collateral to replace the Seller Guaranty: (a) in a form other than a Seller Guaranty; or (b) in the form of a Seller Guaranty from a different Seller Guarantor that is Creditworthy.

6.2 Replacement Collateral; Substituted Collateral; Release of Collateral.

6.2.1. Replacement Collateral. To the extent that any Performance Security supplement or replacement is required to maintain compliance with Section 6.1 (*Performance Security*), Seller must deliver to GPC the replacement Seller Performance Security by no later than 90 Days before the earlier to occur of: (i) the date when an increase or decrease in Eligible Collateral is required in accordance with Exhibit A-2 (*Performance Security and Liquidated Damages*); or (ii) the date when the existing Eligible Collateral will expire. However, the increase or decrease, as applicable, in Eligible Collateral will not become effective until the applicable date indicated in Exhibit A-2. If the U.S. commercial bank or a U.S. branch of a foreign bank that issued the Letter of Credit fails to maintain: (a) total assets of at least ten billion dollars ($10,000,000,000); or (b) a general long-term senior unsecured debt rating required for a Letter of Credit under this PPA, Seller must deliver to GPC a replacement Letter of Credit by no later than 10 Banking Days. If Seller does not comply with the preceding sentence, GPC has the right, without limitation to its other remedies under this PPA or at law, to draw the full amount on the existing Eligible Collateral prior to its expiration date or take further action to protect its interests under this PPA.

6.2.2. Release of Collateral; Substituted Collateral. Upon replacement of the Seller Performance Security in accordance with Section 6.2.1 (*Replacement Collateral*), GPC will promptly release back to Seller the Eligible Collateral that Seller replaced. During the Term, Seller may substitute the Eligible Collateral by providing GPC with notice and the substitute Eligible Collateral. If GPC accepts the substitute Eligible Collateral, GPC will promptly release the Eligible Collateral for which substitution is being made in an amount equal to the substitution amount. Following any expiration or termination of this PPA, the Parties will mutually agree to a final settlement of all obligations under this PPA, which period will not exceed six Months after the expiration or termination date. After the settlement, GPC will return to Seller any remaining Eligible Collateral that Seller posted and upon which GPC has not drawn in accordance with GPC's rights under this PPA. Any dispute between the Parties regarding a final settlement will be resolved according to Part 19 (*Dispute Resolution*), and GPC will not return to Seller any remaining Eligible Collateral that Seller posted until the resolution of the dispute.

6.3 Draws; Replenishment. In addition to the draws permitted by Section 6.2.1 (*Replacement Collateral*) and Section 7.4 (*Grid Cost Improvements*), GPC may draw upon the Eligible Collateral provided by Seller to recover any damages to which GPC is entitled under this PPA (including damages following the occurrence of a Seller Event of Default) or any other unpaid amount owed by Seller under this PPA, including to recover delay liquidated damages under Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*), damages arising from a Seller Event of Default, or termination damages arising from GPC's termination of this PPA for a Seller Event of Default. If GPC draws upon the Eligible Collateral, then, except in the circumstance when GPC establishes an Early Termination Date under Section 16.3.1 (*Remedies for Event of Default*) or this PPA otherwise terminates, Seller, within three Business Days, must replenish the Eligible Collateral to the full amount required by Section 6.1 (*Performance Security*) and Section 7.4.

6.4 Reporting. Seller must promptly notify GPC of any circumstance that results in Seller's failure to comply with the Seller Performance Security requirements of this Part 6 (*Performance Security*). From time to time, at GPC's written request, Seller must provide GPC with evidence as GPC reasonably requests to demonstrate that Seller and any Seller Guarantor, Seller Guaranty, Letter of Credit, or Security Account is in full compliance with this PPA.

6.5 Delivery of Eligible Collateral for Performance Security. Seller must provide to GPC Eligible Collateral to meet any of the Seller Performance Security requirements under this PPA by delivering, as applicable: (i) cash wired to an account to be designated by GPC; or (ii) Letter of Credit or Seller Guaranty to the address indicated in Exhibit Q (*Notices*).

PART 7 FACILITY DESIGN AND CONSTRUCTION; ACHIEVING COMMERCIAL OPERATION; GRID COST IMPROVEMENTS

7.1 Design and Construction of the Facility.

7.1.1. Facility Design. Seller must design and construct the ESS in accordance with the applicable specifications set forth in Exhibit E (*Facility Operating and Dispatching Requirements*) and Exhibit H (*Requirements for PPA Facility*). The Facility must be designed to allow for Grid Charging. Seller must design the Facility and otherwise complete the Project in accordance with Prudent Industry Practices and applicable law. The Facility must comply with applicable EOP-012-1 (*Extreme Cold Weather Preparedness and Operations*) requirements, including Requirements R1 (applicable to New Facilities), R2 (applicable to Existing Facilities), R3, R4, R5, R6, and R7. EOP-012-1 is published by NERC and available at: **https://www.nerc.com/pa/Stand/Reliability%20Standards/EOP-012-1.pdf**.

7.1.2. ESS Design and Specifications. The ESS must be designed to deliver the Contracted Capacity (MW) over the Storage Device Discharge Duration (SDDD), delivering the entire Storage Device Operating Energy (SDOE) (MWh), as measured at the POI. The ESS must also be capable of charging at the Maximum Rate of Charge throughout the Term. Seller must maintain these energy storage capabilities throughout the Term. Seller must design, build, and maintain the ESS with adequate margins, including any future augmentation, to demonstrate and perform to these specifications, accounting for any RTE losses, conversion losses, storage losses, efficiency degradation, or any other possible decrease in performance so that the Performance Guarantees are met over the Term. Each Month, GPC will assess the applicable Performance Metrics detailed in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) and calculate any Monthly Capacity Reduction. Seller must coordinate its control system design details with GPC, as GPC Representatives may request, throughout Project scoping, design, procurement, and construction to ensure that PPA requirements are met.

7.1.3. Facility Control System Design and Capabilities. Seller must design the control and data systems of the ESS to provide: (i) all real-time AGC Setpoint signals and data detailed in Exhibit F (*AGC and Facility Minimum Data Requirements*); (ii) any additional information that GPC requires to manage GPC's dispatch of the Facility's energy and capacity and to track and measure ESS performance. The ESS Operating High Limit will be updated in real time based on the Interconnection Limit (i.e. available discharge from ESS) to limit ESS operation, if applicable. The Facility control system will receive and send, every six seconds, AGC Setpoint signals to allow GPC to direct the energy input/output of the ESS. Seller must coordinate its control system design details with GPC, as GPC Representatives may request, throughout Project scoping, design, procurement, and construction to ensure that PPA requirements are met.

7.1.4. RCOD and Facility Construction Key Milestones. Seller must progress Facility construction in accordance with applicable Key Milestone Dates, including achievement of Commercial Operation by the RCOD.

7.1.5. Commercial Operation. The Facility will be deemed to have achieved Commercial Operation under this PPA when Seller demonstrates, to GPC's satisfaction, that the following listed criteria are fulfilled. GPC is entitled, but not required, to verify satisfaction of these criteria before GPC's acceptance of Commercial Operation:

(i) Reserved.

(ii) The Facility is capable of supplying all needed data, control system access, interconnection, and AGC Setpoint signals to allow GPC to dispatch the ESS;

(iii) (a) Seller has satisfied all IA requirements that are conditions to commercial operation (as defined in the IA); (b) the Facility otherwise is in compliance with the IA; and (c) the Facility has demonstrated the reliability of its communication systems with the Dispatch Center;

(iv) Seller has successfully completed Performance Testing of the Facility and achieved the Performance Guarantees in accordance with Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), Part 1 (*Testing Requirements*), including a Tested Storage Capacity higher than 70% of the Contracted Capacity under Exhibit B, Section 1.1 (*Contracted Capacity Cap*);

(v) Seller must have provided GPC with a certificate reasonably acceptable to GPC stating that the Facility has been designed, engineered, constructed, and tested in accordance with Prudent Industry Practices and is capable of performing in accordance with the terms of this PPA; and

(vi) Seller must have delivered to GPC a certificate from a responsible officer of Seller certifying that Seller has obtained all licenses, permits, franchises, agreements, approvals, authorizations, Consents, waivers, rights, exemptions, releases, variances, exceptions, or orders of or issued by, or filing with, or notice to, any Governmental Authority required under applicable law ("**Governmental Approvals**") for the construction, ownership, operation, and maintenance of the Facility in accordance with this PPA.

7.1.6. Commercial Operation Certificate. When Seller believes the Facility achieved the Commercial Operation requirements set forth in Section 7.1.5 (*Commercial Operation*), Seller must complete and submit to GPC the Commercial Operation Completion Certificate provided in Exhibit K (*Form of Commercial Operation Completion Certificate*). Upon receipt of the Commercial Operation Completion Certificate, GPC will have the right, but not the obligation, to inspect the Facility or review inspection-related information before acceptance. Within 30 Days after receipt, GPC will review the Commercial Operation Completion Certificate and notify Seller whether GPC agrees that Commercial Operation was achieved. If GPC agrees that Commercial Operation was achieved, the date that Seller submitted the Commercial Operation Completion Certificate will be the Commercial Operation Date. However, if GPC determines that the Facility has not actually achieved Commercial Operation, GPC will notify Seller of any issue and deficiency, and Seller must promptly resolve any issue or deficiency and then resubmit the Commercial Operation Completion Certificate. This process will repeat until Commercial Operation (as determined by GPC) is achieved. Seller will be liable for Delay Damages under Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*) if GPC determines that Seller did not timely achieve Commercial Operation. Subject to Section 7.3.4 (*RCOD Exceptions*), if applicable, Seller may be entitled to an RCOD extension if: (i) the Facility interconnects to the Southern Company Transmission System; and (ii) the Interconnection Provider is solely responsible for a delay in the construction of Interconnection Facilities.

7.2 Key Milestones and Milestone Schedule. By no later than 10 Business Days after the date of the Commission Certificate, Seller must provide a Milestone Schedule. At a minimum, the Milestone Schedule must include the Key Milestones stated in Exhibit A-1 (*Key Milestones and Required Key Milestone Dates*) and supported by documentation, as applicable.

7.2.1. Milestone Schedule Updates; Quarterly Reports. Until COD, Seller must submit to GPC a Monthly written status report that: (i) covers the previous Month; (ii) is prepared in a manner and format (hard copy and electronic) acceptable to GPC; and (iii) includes a detailed summary of (a) Seller's progress toward each of the Key Milestones and the Facility's development and construction, (b) Seller's adherence to the Milestone Schedule, (c) any significant event that is scheduled or expected to occur during the following 30 Days, and (d) any other information requested by GPC. Seller must promptly notify GPC of any significant change in the Milestone Schedule that may delay Commercial Operation or the status of construction as may occur from time to time (including the reason for the change).

7.2.2. Recovery Plan. Promptly after becoming aware of any event or circumstance that could reasonably be expected to cause a delay in achieving any Key Milestone by its Key Milestone Date, Seller must provide to GPC for GPC's review and reasonable approval a recovery plan setting forth in detail and with supporting documentation: (i) the cause(s) of the event or circumstance and the expected delay; and (ii) Seller's plan to recover the lost time and regain compliance with the Milestone Schedule to achieve Commercial Operation by the RCOD, and if not by the RCOD, then by no later than nine Months after the RCOD. If Seller does not: (a) submit a recovery plan that meets GPC's reasonable approval; or (b) diligently implement and comply with a GPC-approved recovery plan, GPC may declare a Seller Event of Default in accordance with Section 16.1.5 (*Failure to Comply with Other Material PPA Terms*) and terminate this PPA without giving Seller further

opportunity to cure. Nothing in this Section 7.2.2 will be construed to relieve Seller of any of its PPA obligations.

7.2.3. Requested Information and Physical Inspections. GPC may reasonably request information regarding the status of the Facility and inspect the Facility's construction, startup, and testing. Seller must provide, or cause to be provided, to GPC the requested information. Additionally, Seller must coordinate physical inspection of the Facility as GPC may reasonably request during or after completion of construction. GPC will provide Seller reasonable prior notice regarding an inspection. All GPC or GPC-Representative activities at the Site will be subject to Seller's reasonable rules and procedures (including those related to health and safety).

7.3 Failure to Achieve Commercial Operation by RCOD.

7.3.1. Delay Liquidated Damages. If Seller fails to achieve Commercial Operation by the RCOD, Seller must pay to GPC delay liquidated damages calculated in accordance with the *Liquidated Damages* table in Exhibit A-2 (*Performance Security and Liquidated Damages*), prorated daily, until the earlier of: (i) COD; (ii) the Day GPC receives written notice from Seller that Commercial Operation will not be achieved; or (iii) GPC's termination of this PPA for an Event of Default by Seller in accordance with Section 16.3.1 (*Remedies for Event of Default*).

7.3.2. No Payment to Seller during Delay. GPC will not owe any Monthly Capacity Payment to Seller during any period of delay in achieving Commercial Operation.

7.3.3. Seller Payment of Delay Liquidated Damages; Pre-COD Termination Damages. Seller must pay GPC, on a Monthly basis by no later than 10 Days after the end of the applicable Month, delay liquidated damages owed under this Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*). In accordance with Section 6.3 (*Draws; Replenishment*): (i) GPC may draw upon the Performance Security to recover delay liquidated damages owed under this Section 7.3; and (ii) Seller must replenish the Performance Security. The Parties will resolve any dispute regarding delay liquidated damages under this Section 7.3 in accordance with Section 5.2 (*Billing Disputes and Final Accounting*). Each of the following events is a Seller Event of Default under Section 16.1.12 (*Abandonment or Failure to Achieve RCOD*): (a) Seller abandons, as determined by GPC, Facility development or construction before COD; (b) Seller does not achieve Commercial Operation by no later than nine Months after the RCOD; or (c) Seller notifies GPC that: (I) Seller has reasonably determined that Seller will not achieve Commercial Operation; or (II) Seller will not achieve Commercial Operation by no later than nine Months after the RCOD. If GPC terminates this PPA for a Seller Event of Default under Section 16.1.12, then, in addition to Seller's payment of the delay liquidated damages that accrue under Section 7.3, Seller must pay to GPC, as the Termination Payment, termination liquidated damages in an amount equal to the applicable Performance Security amount shown in Exhibit A-2 (*Performance Security and Liquidated Damages*). Subject to Section 7.4 (*Grid Cost Improvements*), Seller must reimburse GPC for the total costs GPC incurred for modifications to the Electric System associated with the Facility and the operational capability of the Facility for GPC's customers. Following termination, as described in the preceding sentences, and Seller's payment to GPC of all required damages in accordance with this Section 7.3, neither Party will have any other liability to the other Party under this PPA.

7.3.4. RCOD Exceptions. If Seller's failure to achieve Commercial Operation by the RCOD is solely caused by: (i) an FME under Section 15.3 (*No Breach or Liability*); or (ii) if one of the Southern Companies is the Interconnection Provider, a delay in the construction by Interconnection Provider of the Interconnection Facilities, so long as Seller has complied with Section 8.1.3 (*Interconnection Projected Completion Date*) and the delay is not caused by any action or inaction on the part of Seller, the RCOD will be extended to the extent the Project's critical path is impacted. In the case of (ii), if Seller has not met all IA obligations in a timely manner, Seller's failure to achieve Commercial Operation by the RCOD will not be excused, the RCOD will not be extended, and, while the Interconnection Provider completes construction of the Interconnection Facilities, Seller will owe liquidated delay damages for each Day of delay after RCOD as set forth in Section 7.3.1 (*Delay Liquidated Damages*).

7.3.5. Liability Following Termination. If GPC terminates this PPA in accordance with Section 16.3 (*Remedies*) for a Seller Event of Default under Section 16.1.12 (*Abandonment or Failure to Achieve RCOD*), Seller will owe the Termination Payment under Section 16.3 in addition to the delay liquidated damages that accrue before termination. GPC will also have a right to draw upon the Upgrade Security in accordance with Section 7.4 (*Grid Cost Improvements*). After the termination, other than the requirement for Seller to pay the damages that accrue under this Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*) and Section 16.3.2 (*Gains, Losses, Costs, or Damages*), and GPC's right to draw upon the Upgrade Security in accordance with Section 7.4, neither Party will have any further liability to the other Party pursuant to this PPA.

7.3.6. Commercial Operation Delay Caused by Southern Company Transmission System Capability.

(i) RCOD Extension to Accommodate Start-Up and Testing. Subject to all conditions in this Section 7.3.6(i), the RCOD will be extended if: (a) the Facility is interconnecting to the Southern Company Transmission System; (b) as a sole and direct result of Interconnection Facilities construction delay, Facility start-up and testing activities are delayed and Seller is prevented from achieving Commercial Operation by the RCOD; (c) the Interconnection Provider is solely responsible under the IA for the Interconnection Facilities construction delay; and (d) Seller undertakes all commercially reasonable action to avoid, overcome, or otherwise mitigate the impact of the delay. Any RCOD extension under this Section 7.3.6(i) will be based on the demonstrable impact to the critical path of the Milestone Schedule. The RCOD will not be extended if: (I) Seller has not timely complied with Section 8.1 (*Interconnection*); or (II) the delay was caused, in whole or in part, by any action or inaction on the part of Seller or a Seller Representative.

(ii) Exclusive Remedy. Seller understands and acknowledges that extension of RCOD in accordance with Section 7.3.6(i) (*RCOD Extension to Accommodate Start-Up and Testing*) will be Seller's exclusive remedy for any delay described in Section 7.3.6(i).

(iii) No PPA Term Extension. Despite any other provision in this PPA, an extension of RCOD under Section 7.3.6(i) (*RCOD Extension to Accommodate Start-Up and Testing*) will not cause an extension of the Term, and no delay described in this Section 7.3.6 will otherwise extend this PPA beyond its stated Term.

7.4 Grid Cost Improvements. [Note to Bidders: Language consistent with the Upgrade Security sections of RFP Exhibit B (*Interconnection and Delivery Requirements*) will be included in this Section 7.4.]

PART 8 INTERCONNECTION AND METERING

8.1 Interconnection.

8.1.1. Interconnection Study and Entry into IA. After the Commission certifies this PPA, Seller must enter into an IA with the Interconnection Provider by no later than 30 Days after the Interconnection Provider presents Seller with the IA for execution, unless GPC agrees otherwise in writing. Seller must timely comply with all obligations under the Interconnection Study Agreement and IA, including timely submission of required data and documentation and timely payment, as applicable. Contracted Capacity must not exceed the Interconnection Limit. The IA must be maintained in effect throughout the Term. Seller must promptly provide to GPC a copy of, and any amendment to, the IA in accordance with Section 20.4 (*Notice*).

8.1.2. Interconnection Costs and Expenses. GPC will not be responsible under this PPA for any cost or expense (including overheads and administrative costs) or risk incurred concerning: (i) the Interconnection Study; or (ii) the design, construction, installation, or maintenance of the Interconnection Facilities. Seller is responsible for determining all transmission- and interconnection-related rules, practices, and policies with which Seller must comply. Seller also is responsible for satisfying the payment or security requirements of any Interconnection Provider.

8.1.3. Interconnection Projected Completion Date. The IA must reflect a projected completion date for construction of the Interconnection Facilities, including a reasonable schedule between

initial synchronization and the RCOD to allow for operations verification and testing consistent with the Interconnection Provider's current practices. Seller must, in a timely manner, execute and perform under the IA, including providing timely notice to proceed, timely submission of required data and documentation, and timely payment or security. Seller acknowledges that before entering an IA with Southern Companies, as described in Section 8.1.4 (*Interconnection to Southern Company Transmission System*), Seller may need to enter an engineering, procurement, and construction agreement to provide timely notice to proceed.

8.1.4. Interconnection to Southern Company Transmission System. If the Facility interconnects to the Southern Company Transmission System, the IA will be read in conjunction with this Part 8 (*Interconnection and Metering*) and any contradictory provision related to Facility interconnection will be resolved in favor of the IA.

8.2 Metering and Telemetry.

8.2.1. Metering System. Seller must ensure the Metering System is designed, located, constructed, installed, owned, operated, and maintained in accordance with the IA and Prudent Industry Practices to measure and record the energy delivered to the POI from the Facility to determine: (i) ESS capacity; and (ii) the measured availability of the ESS in meeting GPC's AGC Setpoint signals. The Metering System must continuously measure ESS input/output and report the values at all times. The Metering System will be of a mutually acceptable accuracy range and type, including audit capabilities. Seller and Seller's Representatives must not adjust the Metering System without GPC's written consent. GPC, at its own cost, may install additional meters or other such facilities, equipment, or devices as GPC deems necessary or appropriate to monitor the measurements of the Metering System. Seller must install, at its own expense, all needed metering support equipment on its side of the POI to facilitate GPC's dispatch of the ESS via AGC Setpoint signals. Seller must also, at Seller's expense, install or upgrade the Facility control systems to allow GPC's AGC dispatch of the ESS. GPC will reasonably establish the telemetering equipment and systems that are necessary to dispatch the ESS from the Dispatch Center, and Seller, at Seller's expense, must install or cause the installation of such telemetering equipment. Seller must deliver to GPC all the telemetered data and any other data GPC requests.

8.2.2. Inspection. Seller must inspect and test all meters at such times as will conform to Prudent Industry Practices, but not less often than once biennially. Seller will be responsible for all costs and expenses incurred in connection with such inspections or tests.

8.2.3. Adjustments. If the Metering System fails to register, if any seal securing the Metering System is found broken, or if a measurement made by a metering device is found upon testing to vary by more than 0.5% from the measurement made by the standard meter used in the test, an adjustment will be made correcting all measurements of energy made by the Metering System during the Adjustment Period. "**Adjustment Period**" means either: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if the actual period cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the Metering System to the date the failure is discovered or the test is made. If the Parties are unable to agree on the adjustment to be applied to the Adjustment Period, the adjustment will be determined: (a) by correcting the error if the percentage of error is ascertainable by calibration, test, or mathematical calculation; or (b) if not so ascertainable, by estimating based on deliveries made under similar conditions during the period since the last test. Within 30 Days after the determination of any adjustment, GPC will pay Seller any additional amount then due or GPC will be entitled to a credit against any subsequent Monthly Capacity Payment.

8.2.4. Notice of Testing. GPC and its Representatives may be present at any test, inspection, maintenance, adjustment, or replacement of any part of the Metering System relating to obligations under this PPA. Seller must provide GPC with reasonable prior written notice regarding an activity described in the preceding sentence.

8.2.5. Loss Factor Adjustment. If, and to the extent, the Metering System is not measuring deliveries of energy physically at the POI, the metered energy quantity will be adjusted for losses to or from the POI by a loss factor determined by GPC, in accordance with Prudent Industry Practices.

PART 9 ESS CAPACITY AND PERFORMANCE TESTS

9.1 Tested Storage Capacity and Contracted Capacity. Prior to Commercial Operation, Seller will conduct, at its expense, Performance Testing as detailed in Section 1.2 (*Tested Storage Capacity; Performance Testing*) of Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*). Seller must notify GPC Representatives in advance of Seller's Performance Testing and allow GPC to witness and participate in the Performance Testing as GPC desires. Upon Seller's completion of any Performance Test, Seller must promptly provide to GPC a complete written report, in accordance with Exhibit E (*Performance Testing Procedures*), of the Performance Test, certified by a responsible officer of Seller, for GPC's review and verification. Following the Delivery Commencement Date, Seller must cooperate with GPC's request for information concerning Facility performance that GPC may reasonably request from time to time.

9.2 Disputes Concerning Capacity Tests. If the Parties disagree regarding the Performance Test results, the Parties will resolve the dispute in accordance with Part 19.2 (*Expert Arbitration*). If the dispute is not resolved by the first Day of any Annual Period, the relevant Tested Storage Capacity from the most recent Performance Test will be used by GPC for the Monthly Capacity Fee calculation until the dispute is resolved. After the dispute is resolved, an adjustment may be made to Monthly Capacity Payments made regarding the Annual Period to account for any difference between the SDDC and the preceding Tested Storage Capacity from the most recent Performance Test.

PART 10 OPERATION AND MAINTENANCE

10.1 Operation and Maintenance.

10.1.1. General Standards. Seller must manage, control, operate, and maintain all parts of the Facility in a manner consistent with Prudent Industry Practices, considering GPC's right to dispatch the ESS, in accordance with applicable planning standards and operating policies of SERC and NERC, and in accordance with the Operating Procedures developed by the Operating Committee. The requirements of this Section 10.1.1 will not be interpreted to limit GPC's dispatch rights as provided for elsewhere in this PPA.

10.1.2. Written Operating Procedures. Seller and GPC will mutually develop and agree upon written Operating Procedures no later than six Months before the Delivery Commencement Date. Topics covered will include: (i) Performance Tests procedures, deliveries of energy during start-up, and testing of the Facility; (ii) the method of Day-to-Day communications; (iii) clearance and switching practices; (iv) daily capacity availability and energy reports; (v) Facility operations log; (vi) reactive power output; (vii) Technical Limits regarding Facility operation (including maximum ramp rates, (and other limits specified in Exhibit E (*Facility Operating and Dispatching Requirements*)); (viii) ramp rates for the delivery of power to the POI; (ix) coordination of maintenance scheduling; (x) designation of confidential information; and (xi) any other matters as the Operating Representatives agree are appropriate. The Operating Representatives will be responsible for modifying, from time to time, these Operating Procedures in writing to reflect agreed changes. In the event of inconsistency or conflict between the Operating Procedures and specific terms of this PPA, the specific terms of this PPA will take precedence.

10.1.3. Safety Devices, Safety Practices, and Records. Seller must employ at the Facility all safety devices and safety practices required by Prudent Industry Practices. Seller must keep accurate records of any accident or other occurrence at the Site that results in injury to persons or damage to property. Seller must provide to GPC reasonable access to these records upon at least seven Days' notice during normal business Hours, but Seller will not be required to provide access to employment records regarding Facility personnel.

10.1.4. Facility Personnel. During the Term, Seller must employ qualified and trained personnel for management, operation, and maintenance of the Facility.

10.2 Maintenance Scheduling.

10.2.1. Maintenance Schedule Reporting and Approvals. Commencing in the year before the year of the Delivery Commencement Date, and continuing throughout the Term, Seller must submit to GPC before September 1 Maintenance Schedules covering the next four Annual Periods or the number of Annual Periods remaining in the Term, whichever is less. Seller must not schedule any maintenance of the Facility during any On Peak Season of any Annual Period that would decrease the ESS: (i) capacity output below the SDDC; (ii) energy storage capability below the SDOE; (iii) rate of charge capability below the ROC, without the prior written consent of GPC. The proposed Maintenance Schedules are subject to the approval of GPC, which approval GPC will not unreasonably withhold or delay. GPC will have 30 Days to review the proposed Maintenance Schedules and may approve or reject (in whole or in part) the Maintenance Schedules. If any portion of a Maintenance Schedule is rejected by GPC, Seller must resubmit a revised Maintenance Schedule to GPC within 30 Days of GPC's rejection and GPC and Seller agree to use best efforts to promptly develop Maintenance Schedules that are mutually acceptable, considering the burdens that GPC's changes impose on Seller compared to the burdens avoided by GPC because of such changes. Any dispute concerning this Section 10.2.1 will be resolved in accordance with Part 19 (*Dispute Resolution*) applicable to Maintenance Schedule disputes. The outages included in the final, approved Maintenance Schedule for the current Annual Period will be the Scheduled Outages for that Annual Period. GPC will exclude Scheduled Outages from its calculation of Performance Metrics under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*).

10.2.2. Maintenance Outages. In addition to Scheduled Outages, Seller may request Maintenance Outages during any Annual Period. Seller must notify GPC (in writing, electronically, or orally) of each Maintenance Outage no less than 24 Hours in advance and at least one Business Day in advance of Seller's proposed commencement of the Maintenance Outage. In Seller's request, Seller must identify the equipment and the percentage of SDDC and SDOE that will not be available for delivery at the POI and the proposed start time and duration of the Maintenance Outage. GPC will respond to Seller's request as soon as reasonably practicable. Seller must not take a Maintenance Outage without GPC's prior written or telephonic consent, and GPC' will not unreasonably withhold, condition, or delay its consent. Despite the preceding sentence, each Party acknowledges that it will be reasonable for GPC to deny any request for a Maintenance Outage if GPC reasonably believes that it may need the ESS during the requested time period. GPC will have the right to revoke its consent to a Maintenance Outage if any changed condition requires the availability of the ESS. If GPC requests Seller to return to full Availability status all or part of that portion of the ESS that is affected by the Maintenance Outage, Seller must comply as soon as reasonably practical. GPC will not dispatch the ESS to the extent that the ESS is not capable of receiving or delivering energy as a direct result of a Scheduled Outage or a Maintenance Outage approved by GPC. GPC's calculation of Performance Metrics under Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) will exclude approved Maintenance Outages.

10.2.3. Reporting of Forced Outages and Derates. Through the method required by the Operating Procedures, Seller must notify GPC promptly upon the occurrence of any Forced Outage or Forced Derate, except that Seller will not be required to notify GPC of any Forced Derate that is less than 0.5 MW or that falls within the rounding requirements specified in the Operating Procedures. As soon as practicable, but in any event not later than the beginning of the period of the Forced Outage or Forced Derate, Seller must notify GPC of: (i) the cause of the outage or derate; (ii) the amount of SDDC and SDOE affected by the outage or derate; (iii) the proposed corrective action to address the outage or derate; and (iv) Seller's reasonable estimate of the expected duration of the Forced Outage or Forced Derate and expected return to full operation.

10.2.4. System Emergencies. If Seller has a Scheduled Outage or Maintenance Outage, and the Scheduled Outage or Maintenance Outage occurs or would occur coincident with a System Emergency, GPC will notify Seller of the System Emergency. GPC may, because of the System Emergency, request Seller to reschedule the Scheduled Outage or Maintenance Outage or, if the

Scheduled Outage or Maintenance Outage has begun, to expedite its completion, and Seller must comply with GPC's request as soon as reasonably practical.

10.3 Reserved.

10.4 Access to the Site and the Facility. Seller grants to GPC or GPC's designated Representatives, with reasonable prior notice to Seller, the right to enter the Site at reasonable times (including nights and weekends) to: (i) inspect, maintain, or test meters and other GPC equipment; (ii) monitor or measure energy received or delivered by the ESS in accordance with this PPA and Prudent Industry Practices; (iii) monitor Performance Tests; or (iv) inspect the Facility. Seller must cooperate in the physical inspection of the Facility as GPC may reasonably require, so long as: (a) the inspection will not materially interfere with the Facility's testing or operations; and (b) GPC complies with rules and regulations of Governmental Authorities having jurisdiction regarding the Facility and with Seller's reasonable policies and procedures applicable to the Facility, including those regarding safety. **GPC's technical review or inspection of the Facility will not be construed as endorsing Facility design or construction or as any warranty of the safety, durability, or reliability of the Facility.** Seller must cooperate, and must cause its Representatives to cooperate, in: (I) providing the information GPC requests; and (II) the physical inspection of the Facility as GPC may reasonably request during and after completion of construction.

10.5 Availability of Records. Seller must keep complete and accurate records and all other data necessary for the purpose of proper PPA administration in accordance with the following guidelines:

10.5.1. Holding Period. Seller must maintain all records related to the Facility and Seller's performance under this PPA for a minimum of five years after the creation of the record or data and for any additional time period required by applicable law or a Governmental Authority. However, the records must be kept for as long as is necessary to complete any audit that began or was announced during the five-year period. Despite any other PPA provision, if Seller intends to dispose of or destroy any such records or data after the five-year period, Seller must provide GPC with 30 Days' prior written notice.

10.5.2. Operating Logs. Seller must maintain at the Facility an accurate and up-to-date operating log with records of: (i) real and reactive power production for each Hour; (ii) changes in operating status and scheduled maintenance; (iii) Scheduled Outages, Maintenance Outages, Forced Outages, and Force Majeure Events; (iv) any unusual condition found during an inspection; and (v) any significant event related to the operation of the Facility.

10.5.3. GPC's Access to Facility and PPA Records. Upon reasonable advance notice and during normal business Hours, GPC will have the right from time to time to examine at the Facility, or at a location mutually agreed to by the Parties, the records and data relating to the Facility and this PPA, including all historical test records relating to the Facility.

10.5.4. GPC's Access to Financial and Business Information. At GPC's request, throughout the Term, Seller must provide to GPC public and non-public financial and business information reasonably necessary for GPC to make accounting determinations. Without limiting the preceding sentence, upon reasonable notice to Seller, GPC and GPC's independent auditor will have the right to inspect, from time to time, Seller's books and records as are reasonably necessary for GPC to determine whether Seller constitutes a VIE or this PPA represents a VI, or if this PPA must be treated as a Finance Lease. To the extent the inspection requires access to Seller's confidential information, the information will constitute Confidential Information subject to Section 20.16 (*Confidentiality*).

10.5.5. GADS Data. By no later than the 10th Day of each Month, Seller must provide to GPC all the preceding Month's NERC Generation Availability Data System (GADS) (or any successor system), or other applicable system, data concerning the Facility, as applicable.

10.6 Effect of GPC Action. Seller understands and agrees that GPC's receipt and review of any material related to the Project or any physical inspection of the Facility GPC conducts under any PPA provision is solely for GPC's own information. By conducting the review or inspection, GPC makes no endorsement of the design or representation or warranty of the safety, durability, or reliability of the Facility, all of which are the sole responsibility of Seller in accordance with the terms of this PPA, and GPC will not be deemed to have accepted any condition of the Facility that is not in full compliance with the terms of this PPA. Seller

must not represent to any third party that, because of GPC's receipt or review of any material or any inspection, GPC is in any way responsible for the engineering or construction soundness or operational practice of the Facility.

10.7 Operating Committee.

10.7.1. Appointments. The Parties will establish an Operating Committee comprised of two Operating Representatives, one appointed by each of Seller and GPC. Each Party will provide written notice of the appointment to the other Party. Each Party may change its Operating Representative appointment at any time by similar written notice. The Operating Representatives will meet as necessary, but not less often than once each calendar year, at a mutually agreeable time and place upon prior written notice. The Operating Representatives will represent the Parties in all matters arising under this PPA that are delegated to them by mutual agreement of the Parties, but the Operating Representatives will not have any authority to modify or amend the terms of this PPA.

10.7.2. Cooperation.

Each Party will cooperate in providing the Operating Representatives all information required in the performance of their duties. If the Operating Representatives are unable to agree on any matter falling under their jurisdiction, the Operating Representatives will submit the matter to senior officers for discussion and resolution. All decisions and agreements made by the Operating Representatives or their principals must be evidenced in writing.

10.8 AGC.

10.8.1. Reserved.

10.8.2. Operation on AGC. Seller must operate the ESS and charge or discharge in compliance with GPC's AGC Setpoint signals as further described in Section 10.7.2 (*AGC Setpoint Signals*). During periods when the AGC Setpoint is zero MW, the ESS must be controlled so that the ESS does not discharge (e.g., is in idle state).

10.8.3. AGC Setpoint Signals. At Seller's sole expense, Seller will install, operate, and maintain AGC equipment and systems at the Facility as necessary to enable the Facility to respond to and follow GPC's AGC Setpoint signals in compliance with this PPA. The Facility must be capable of remaining on AGC at all times while Available. The Facility's AGC system will include all necessary connections to GPC's AGC equipment (to GPC 's satisfaction) to enable GPC to send AGC Setpoint signals to the Facility and to measure, record, and control energy input/output from the Facility at all times. The Facility's AGC system must conform to Prudent Industry Practices and be configured to interface with GPC's AGC RTU(s) to send and receive data for AGC that satisfies the minimum data requirements in Exhibit F (*AGC and Facility Minimum Data Requirements*).

10.9 AGC Performance Requirements. Part 3 of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) establishes the AGC Performance Requirements. Seller must achieve the AGC Status Performance Requirement and the AGC Setpoint Response Performance Requirement for each Month of each Annual Period. Seller's failure to achieve the AGC Status Performance Requirement or the AGC Setpoint Response Performance Requirement will be an Event of Default by Seller pursuant to Section 16.1.10 (*Failure to Meet AGC Performance Requirements*).

10.10 Reserved,

10.11 AGC Performance Metrics. Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) details the Performance Metrics that Seller must achieve each Month of each Annual Period during the Term. If Seller fails to achieve any required Performance Metric in a given Month, Seller's Monthly Capacity Payment will be reduced pursuant to Exhibit C.

10.12 Reactive Power. During the Term, the Facility must be capable of providing, and upon GPC's request Seller must cause the Facility to provide, reactive power support (i.e., to produce and absorb reactive power) to meet the Interconnection Provider's voltage schedule requirements outlined in Southern Company Bulk Power Operation's BPO-–01 - Attachment A, as well as meeting the operational

requirements as specified in The Southern Company Bulk Power Operations Procedure BPO-01 at all real power levels (pushing and pulling), including zero real power. In the case of an ESS comprised of technology other than inverter-based technology, such requirements will apply only when the ESS is charging or discharging. For any ESS comprised of inverter-based technology, such requirements will apply at all times, regardless of whether the Facility is delivering real power.

10.13 Cyber Security. The Facility must comply with the requirements for Bulk Electric System generation facilities in North America set forth in the NERC reliability standards (*Cyber Security Standards*) created pursuant to FERC Order 706 (*Mandatory Reliability Standards for Critical Infrastructure Protection*), other applicable law, or Prudent Industry Practices. With respect to any actual or suspected cyber security incident that compromises, disrupts, or constitutes an attempt to compromise or disrupt: (i) Seller's cyber security or physical security at the Facility; (ii) the performance of Seller's obligations regarding the operation of the Facility; or (iii) products, software, or systems provided or to be provided under this PPA (a "**Cyber Security Incident**"), Seller must report any Cyber Security Incident to GPC within 24 Hours after discovery.

10.13.1. Sourcing Restrictions. Programmable electronic components of the: (i) Battery Management System (BMS); (ii) BESS Controller; and (iii) Site Controller (including controls, hardware and software) must not be sourced from or manufactured by Foreign Entities of Concern ("FEOC") as defined in 42 U.S.C. § 18741(5) and subsequently interpreted in "Interpretation of Foreign Entity of Concern," 89 Fed. Reg. 37085 (May 6, 2024) or sourced from or manufactured in one of the following countries: China, Russia, North Korea, Saudi Arabia, Serbia, Algeria, Venezuela, Iran, Iraq, Belarus, Kazakhstan, Kyrgyzstan, Uzbekistan, Syria, Lebanon, South Sudan, Pakistan, Cuba, or the Netherlands. For purposes of this provision, the terms Battery Management System, BESS Controller, and Site Controller are defined as follows:

(i) Battery Management System (BMS): A control system used to protect the battery and to provide key parameters, such as state of charge, battery health, and temperature.

(ii) BESS Controller: A controller used to manage multiple stacks or arrays of batteries. This controller manages the balancing of the batteries.

(iii) Site Controller: A control system used to manage one or more sources (Photovoltaic solar, batteries, etc.) to achieve facility level control.

PART 11 ESS; GRID CHARGING

11.1 Use of ESS. Seller acknowledges and agrees that the exclusive purpose and use of the ESS is to satisfy Seller's capacity obligations under this PPA and to satisfy Seller's obligations under this PPA to charge the ESS or discharge energy to the POI in accordance with GPC's dispatch instructions.

11.2 Reserved.

11.3 Grid Charging. At GPC's discretion, GPC may direct Grid Charging of the ESS at any time after COD and in any amount within ESS operating limits. Any Charging Energy will be counted against the Cycle Limits when discharged.

PART 12 ENERGY DISPATCH

12.1 Energy Dispatch. GPC will issue dispatch instructions via six-second AGC Setpoint signals for the ESS electrical input and output committed under this PPA. If the AGC capability of the ESS is unavailable, GPC may utilize non-AGC dispatching and Seller, at Seller's expense, must use commercially reasonable efforts to re-establish AGC capability.

12.2 Coordination and Dispatch.

12.2.1. Electrical Input and Output; Dispatch Instructions; IA Compliance. The electrical input and output of the ESS committed under this PPA will be subject to AGC Setpoint signals issued by GPC. Seller must comply with these signals when received.

12.2.2. Records and Energy Dispatch. GPC and Seller will maintain electronic records of the quantities of energy delivered or received each six-second period and Hour during the Term.

12.2.3. System Emergency.

(i) General System Emergency Procedure. The Parties recognize that GPC is a FERC jurisdictional entity subject to the reliability authority of NERC and that, to ensure continuous and reliable electric service, GPC operates its system in accordance with the operating criteria and guidelines of NERC. If a System Emergency is declared and AGC dispatch is not available, GPC may require Seller's personnel to operate the Facility manually, including potential start-up or shutdown situations, to maintain safe and reliable load levels and voltages on the Electric System. To the extent Seller is required, under this Section 12.2.3 (*System Emergency*), to take any action, or GPC takes any action, which will adversely affect Seller's ability to meet the Performance Metrics, including dispatch modified in accordance with Section 12.2.3(ii) (*Cooperation During System Emergency*), Seller may be excused from meeting GPC's AGC Setpoint signals for purposes of the Performance Metrics calculations.

(ii) Cooperation During System Emergency. Seller must cooperate with GPC in establishing System Emergency plans, including recovery from a local or widespread electrical blackout, voltage reduction to effect load curtailment, or other plans that may be necessary or appropriate under the circumstances.

12.3 Effect of Grid Emergencies. The Parties recognize that, in accordance with the IA, Seller may be required to reduce the Facility's operational capability or take other actions during a Grid Emergency, including disconnection of the Facility from the Southern Company Transmission System, to allow mitigation of system problems and repair or maintenance of the Interconnection Facilities or the Southern Company Transmission System. To the extent Seller is required under the IA to take any action, other than instances where Seller's acts or omissions are the cause for the required actions, which will adversely affect Seller's ability to meet GPC's AGC Setpoint signals, Seller will be excused from meeting GPC's AGC Setpoint signals and, for the purposes of Performance Metrics calculations, such AGC intervals will be removed as appropriate.

12.4 Effect of Insufficient Capability in the Transmission System. If the Southern Company Transmission System is unable to receive Discharging Energy from the Facility, Seller will be excused from meeting GPC's AGC Setpoint signals. For purposes of Performance Metrics calculations, the AGC intervals during which the Southern Company Transmission System was unable to receive Discharging Energy will be removed.

PART 13 INSURANCE

13.1 Insurance Required of Seller. Throughout the Term, Seller must acquire and maintain in effect without interruption, at its sole cost and expense, the types and amounts of insurance coverage as are consistent with Prudent Industry Practices, but in no event less than the types and amounts described in this Part 13 (*Insurance*). All insurance must be with insurers: (i) holding an AM Best rating of at least A- VII or equivalent; (ii) whose financial condition and policy forms are acceptable to GPC (Seller must not unreasonably withhold requested documents); and (iii) authorized to transact insurance in the state where the Facility is located.

13.2 Proof of Insurance. Before the Effective Date and annually after the Effective Date on the COD anniversary, Seller must provide to GPC a certificate of insurance certifying Seller's coverage under insurance policy(ies) issued by an insurance company or insurance companies meeting the requirements of Section 13.1 (*Insurance Required of Seller*). GPC's receipt or acceptance, without objection, of a certificate of insurance that does not comply with this Part 13 (*Insurance*) does not operate as GPC's waiver of Seller's obligations under the requirements of this Part 13.

13.3 General Terms. Upon commencement of operation of the Facility, the required insurance coverage must contain a broad form contractual endorsement specifically covering liabilities arising out of or caused by the operation of the Facility or by Seller's failure to maintain the Facility in satisfactory and safe operating

condition. Seller's insurance must be primary for any activity arising out of this PPA. Insurance or self-insurance maintained by GPC or other additional insureds is in excess of Seller's insurance, contingent and non-contributory. To the extent allowed by applicable law, GPC, its parent, Affiliates, and each of their Representatives, and each other Person identified in this PPA, must be additional insureds under the commercial general liability policy, auto liability policy and, if applicable, excess/umbrella policy. **To the extent allowed by applicable law, Seller waives, and must require its insurers to waive, a right of subrogation against GPC, its parent, Affiliates, and each of their Representatives for the commercial general liability policy, auto liability policy, umbrella policy, and the workers' compensation policy.**

13.4 Required Insurance. Seller must acquire and maintain throughout the Term, the following types of insurance:

13.4.1. Commercial General Liability Insurance. Commercial General Liability insurance providing the following coverage, which can be exceeded by Seller and may be met through a combination of primary insurance and following form excess or umbrella insurance, so long as the combined limits meet requirements of this PPA:

(i) General Requirements. Commercial general liability insurance in an "occurrence" form with bodily injury and property damage combined liability limits of not less than twenty million dollars ($20,000,000.00) per occurrence, except that: (i) Seller may use any combination of primary or excess policies to satisfy the overall limit requirements; and (ii) if Seller uses a "claims-made" policy, it must maintain continuous coverage in effect for at least five years beyond termination of this PPA, through continuous renewal of the original policy or by purchasing extended discovery period or retroactive insurance dated back to the Effective Date of this PPA.

(ii) Additional Requirements. Specific coverage for broad form contractual liability and a separation of insureds provision.

13.5 Additional Insurance. In addition to the requirements in Sections 13.1 through 13.4, Seller must acquire and maintain throughout the Term, the following additional types of insurance:

13.5.1. Workers' Compensation. Workers' compensation insurance in accordance with statutory requirements, including employer's liability insurance, with limits not less than one million dollars ($1,000,000.00) per occurrence and in the aggregate, and endorsement providing insurance for obligations under the U.S. Longshoremen's and Harbor Worker's Compensation Act and the Jones Act, where applicable.

13.5.2. Auto Liability. Automobile liability insurance including owned, non-owned, and hired automobiles with combined bodily injury and property damage limits of at least two million dollars ($2,000,000.00).

13.5.3. Pollution Liability. Coverage for bodily injury, property damage, including clean-up costs and defense costs resulting from sudden, accidental, or gradual pollution conditions, including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, hydrocarbons, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water will be maintained, with limits not less than five million dollars ($5,000,000.00) per occurrence or claim, except that, if Seller uses a "claims-made" policy, the policy must maintain continuous coverage in effect for at least five years beyond termination of this PPA through continuous renewal of the original policy or by purchasing extended discovery period retroactive insurance dated back to the Effective Date of this PPA. Seller may meet the requirements under this Section 13.5.3 (*Pollution Liability*) through sudden or accidental pollution coverage as part of the insurance required under Section 13.4.1 (*Commercial General Liability Insurance*).

13.5.4. All Risk Property. Replacement cost of the Facility. A deductible may be carried, which will be the absolute responsibility of Seller.

13.5.5. Umbrella/Excess. Umbrella/Excess Liability Insurance on an occurrence basis in excess of the underlying insurance identified in Section 13.4 (*Required Insurance*), and which is at least as

broad as each and every one of the underlying policies. The umbrella/excess liability policy must be written on a "drop-down-following form" basis. The amounts of insurance required may be satisfied by Seller purchasing coverage for the limits specified or by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than twenty million dollars ($20,000,000) any one occurrence and annually reinstating general aggregate.

13.6 Notice of Change or Cancellation. The required insurance policies will be endorsed with a provision requiring the insurance company to notify GPC at least 30 Days prior to the effective date of any cancellation, except for a 10 Days' notice for nonpayment of premium. If notice of cancellation is only commercially available to Seller's attention, then Seller will forward the 30-Day (or, for non-payment of premium, 10 Days') advance notice to GPC immediately upon receipt. Furthermore, Seller agrees to notify GPC at least 30 Days before the effective date of any known material change in a required policy.

13.7 Payment of Premiums. Seller must pay all premiums and other charges due on each insurance policy and will keep all coverage in force throughout the Term of this PPA.

13.8 No Waiver of Liability. The provisions requiring Seller to acquire and maintain insurance under this PPA will not be construed as a waiver, restriction, or limitation of any liability imposed on Seller under this PPA, whether the liability is covered by insurance. It is the intent of the Parties, however, that to the extent there is insurance coverage available to cover the legal or contractually assumed liability of Seller, any payments due because of such liability will be made first from the proceeds of such policies.

PART 14 RISK AND CLAIMS

14.1 Liability for Facility. As between the Parties, Seller retains all liability and risk regarding the Facility and the Site. GPC: (i) assumes no duty, responsibility, obligation, or liability regarding Facility or Site condition or operation; (ii) is not liable for injury or damage associated with the Site or the Facility (including its operation, maintenance, repair, or replacement); and (iii) is not responsible for transmission, distribution, or control of electric energy within the Site or at the Facility.

14.2 No Liability. Neither Party is responsible for the other Party's equipment, including its condition or operation. Neither Party is responsible for the distribution or control of electric energy on the other Party's side of the Point of Interconnection. GPC is not responsible for physical damage to, or destruction or degradation of, Seller's property, nor will Seller seek recovery from GPC for property damage (including loss of use or electric service outage), except in the case of sole negligence or intentional wrongdoing by GPC. Without limiting the generality of the previous sentence, neither Party is liable to the other for damage arising from the simple failure (i.e., failure not caused by breach of contract, negligence, or intentional wrongful act) of a protective device or scheme.

14.3 Scope of Indemnity. To the fullest extent allowed by applicable law, Seller must indemnify, release, hold harmless, and, at GPC's request, defend GPC and any GPC-Related Party from or against a Claim caused by, arising out of, or related to an act or omission associated with the Facility or this PPA by any Seller Entity. If the Claim arose out of the joint, concurrent, or contributory acts of both Parties, Seller's liability under this Section 14.3 (*Scope of Indemnity*) is proportional to the extent the Claim was attributable to a Seller Entity, unless the Claim is for personal or bodily injury (including death) to Seller Entity personnel or for damage to Seller Entity or Facility property, in which case Seller is fully responsible to GPC-Related Parties under this Section 14.3. If the Claim resulted from the sole negligence of a GPC-Related Party, Seller will not be liable under this Section 14.3. Seller's indemnity obligations are independent of its insurance obligations. The indemnity obligation expressly includes any Claim from any GPC customer or any third party arising from Seller's operation of the Facility.

14.4 Survival. Despite the expiration or termination of this PPA, Seller's indemnification obligations under this Part 14 (*Risk and Claims*) will survive and continue in full force and effect after such expiration or termination, by default or otherwise, regardless of whether such obligations accrue prior to or after PPA expiration or termination.

PART 15 FORCE MAJEURE

15.1 Definition of Force Majeure Event. For purposes of this PPA, a "**Force Majeure Event (FME)**" is an occurrence, nonoccurrence, or set of circumstances that: (i) first occurs after the Effective Date; (ii) prevents a Party, in whole or in part, from performing any PPA obligation or satisfying any PPA condition; (iii) is beyond the reasonable control of the Party claiming FME; (iv) is not reasonably foreseeable; and (v) is not caused by the Party's negligence, inaction, lack of due diligence, PPA breach, or failure to follow Prudent Industry Practices.

15.2 Force Majeure Exclusions. FME excludes: (i) the inability to meet an applicable law or a change in an applicable law; (ii) a Site-specific strike, walkout, lockout, or other labor dispute at the Facility; (iii) any inability by GPC to receive energy at the POI, provided the inability is not caused by Seller's action or inaction; (iv) ambient temperature or humidity at the Site; (v) failure or inability to obtain or retain sufficient funds for any reason, including funds from a Governmental Authority, or Seller's loss of or inability to obtain or retain any tax credit or other incentive regarding any portion of the Facility; (vi) any event, including a change in any applicable law or accounting standard, that requires GPC to consolidate Seller or any Seller Affiliate or permitted assign as a VIE in GPC's financial statements; (vii) any inability to obtain or maintain, or delay in obtaining, any permit, approval, or other Consent required from a Governmental Authority; (viii) equipment failure or damage; (ix) a change in any market condition that affects the cost or availability of equipment, materials, supplies, or services, including the cost of power from resources other than the Facility; (x) any act or inaction of a Party's contractor, supplier, or vendor; (xi) Seller's inability to arrange or maintain interconnection service for deliveries to the POI; (xii) the interruption, curtailment, or unavailability of service for the transmission of Discharging Energy from the Facility for any reason; or (xiii) any directive from the Interconnection Provider to curtail deliveries of Discharging Energy from the Facility or disconnect the Facility from the Electric System. Despite the preceding sentence, a Party claiming FME may be excused from PPA performance if: (a) a separate event that otherwise constitutes an FME directly and independently causes a circumstance described in subparts (vii) through (xiii); and (b) the Party satisfies all other conditions of this Part 15 (*Force Majeure*).

15.3 No Breach or Liability. If an FME occurs, subject to compliance with all provisions of this Part 15 (Force Majeure), the affected Party will be excused from performance of its obligations impacted by the FME, other than payment obligations that accrued prior to the declaration of the FME, and will not be construed to be in default regarding the obligations, to the extent that, and only for so long as, the failure to perform is due to an FME. However, the suspension of performance due to an FME will be of no greater scope and of no longer duration than is required by the FME. Despite any other provision in this PPA, no FME will extend this PPA beyond the Term.

15.3.1. Burden of Proof and Supporting Documentation. The burden of proof as to whether an FME has occurred and as to the impact of an FME will be upon the affected Party. If the affected Party requests that its performance be excused because of an FME, then the affected Party must support its request with documentation demonstrating: (i) the existence of the FME; (ii) efforts by the affected Party to overcome or mitigate the effect of the FME; and (iii) following the conclusion of the FME, an analysis of the number of Days the FME delayed or otherwise prevented the performance of the affected Party's obligations or satisfaction of any condition of this PPA and, if the FME occurred after COD, information reasonably required to determine the period of time the Facility, in whole or in part, is expected to be or was Unavailable because of FME for purposes of adjusting GPC's calculation of the Performance Metrics. The affected Party must provide the required documentation by no later than five Business Days after the date the FME concludes.

15.3.2. Extension of RCOD. If an FME directly and substantially impacts a critical path item on the Milestone Schedule and, as a result, prevents Seller from achieving Commercial Operation by the RCOD, then the RCOD will be extended by the number of Days of the delay caused by the impact to the critical path item on the Milestone Schedule, so long as, as a condition to any such extension of the RCOD, Seller must comply with the requirements of this Part 15 (*Force Majeure*), including Seller undertaking all commercially reasonable efforts to avoid, overcome, or otherwise mitigate the delay by revising, rearranging, expediting, or accelerating the Milestone Schedule.

15.4 Monthly Capacity Payments. In the case of an Unavailability Period caused by an FME declared by Seller in accordance with this Part 15 (*Force Majeure*), GPC's obligation to make a Monthly Capacity Payment for any Month will be excused pro rata, based on the number of the Days in the Month and the extent to which Seller is prevented on those Days from satisfying dispatch instructions from GPC because of the FME.

15.5 Notice of FME; Updates. Following the occurrence of an FME, and as a condition to relief under Section 15.6 (*Requirements for Relief*), the affected Party will give the other Party notice of the FME, followed by written notice if the first notice is not written, as promptly as possible after the Party becomes aware of the FME, but in no event later than 10 Business Days after the affected party knew of should have known of the occurrence of the FME. The notice must describe the particulars of the FME, including an estimate of the anticipated duration and effect of the FME (if reasonably estimable) upon the performance of the Party's obligations or satisfaction of any conditions under this PPA (including, if Seller is the affected Party, Seller must provide GPC with information reasonably required to determine the reduction of the ESS operational capability), and discussing any actions being taken to avoid or minimize the effect of the FME. The affected Party will have a continuing obligation to deliver to the other Party regular updated reports and any additional documentation and analysis supporting its claim regarding an FME.

Despite the preceding sentences, if the affected Party fails to provide initial written notice within the 10 Business Day period or, following the affected Party's initial notice, the affected Party fails to provide reasonable reports and substantiation of the claimed FME as required by this Part 15 (Force Majeure), the event or condition will be deemed not to be an FME and the affected Party's performance will not be excused as a result of the FME.

15.6 Requirements for Relief. Following the occurrence of an FME, as a condition to relief under Section 15.3 (*No Breach or Liability*):

15.6.1. Timely Notice. The affected Party must comply with the notice requirements of Section 15.5 (*Notice of FME; Updates*).

15.6.2. Continued Performance of Obligations. The affected Party will continue to perform its obligations under this PPA to the extent not affected by the FME.

15.6.4. Reasonable Efforts to Mitigate. The affected Party will remedy its inability to perform as soon as reasonably practicable, but this Section 15.6 (*Requirements for Relief*) will not require the settlement of any non-Site-specific strike, walkout, lockout, or other general labor dispute on terms which, in the sole judgment of the affected Party, are contrary to its interest.

15.6.6. Resume Performance. When the affected Party can resume performance of its obligations under this PPA, the affected Party will promptly provide written notice to the other Party, promptly resume such performance, and provide the other Party with a written certification from an independent, registered engineer that the FME has been cured.

15.7 Extended FME.

15.7.1. Notice and Remedy Plan for Extended FME. If the affected Party has reason to believe that a suspension of performance due to an FME will continue for a period of six Months or longer following the initial suspension of performance resulting from the Force Majeure Event (an "**Extended FME**"), the affected Party must notify the other Party promptly and will submit an "**FME Remedy Plan**" to the other Party no later than 30 Days after the affected Party's initial notice to the other Party. In addition, if the other Party has reason to believe that an FME will be an Extended FME, the other Party may request that the affected Party submit an FME Remedy Plan to the other Party, which the affected Party will submit to the requesting Party no later than 30 Days after the other Party's request. The FME Remedy Plan must set forth a plan and schedule for remedial measures (including a description of necessary repairs, improvements, changes to operations, or other actions) to cure the effects of the FME and to enable the affected Party to perform its obligations and resume full performance of the suspended obligations under this PPA as soon as reasonably practicable. The affected Party must diligently pursue the performance of the FME Remedy Plan to completion.

15.7.2. Monthly Status Reports and Updates to FME Remedy Plan. While an FME Remedy Plan is in effect, the affected Party must provide the other Party with Monthly status reports regarding the implementation of the FME Remedy Plan, any other measures to remedy the FME, any changes to the FME Remedy Plan, and the expected remaining duration of the Party's inability to perform its obligations, and any additional relevant information as may be reasonably requested by the other Party. The affected Party must modify the FME Remedy Plan if and as needed to achieve the objective of resuming full performance of the suspended obligations under this PPA as soon as reasonably practicable.

15.7.3. Early Termination Resulting from an Extended FME. The Party not prevented from performing its obligations due to the FME may at any time terminate this PPA effective upon 10 Days prior written notice to the affected Party if: (i) the affected Party does not or cannot provide an FME Remedy Plan as required by this Section 15.7 (Extended FME); (ii) the affected Party does not or cannot carry out the FME Remedy Plan in a method reasonably designed to achieve the objective of resuming full performance of the suspended obligations under this PPA as soon as reasonably practicable; or (iii) the affected Party remains unable to perform the suspended PPA obligations 12 Months following the date of initial suspension of performance resulting from the FME. For purposes of subsection (iii) of this Section 15.7.3, the 12-Month period need not be continuous only if each period of suspension of performance comprising the 12-Month period is the result of a common cause such that, if the cause had been cured following the first suspension of performance, the additional suspensions of performance would not have occurred.

15.7.4. Liability following Termination. Upon any termination of this PPA as provided in Section 15.7.3 (*Early Termination Resulting from an Extended FME*), the Parties will have no further liability or obligation to each other except for any obligation arising prior to the date of the termination or as provided in Section 1.2 (*Survival*).

PART 16 DEFAULT AND REMEDIES

16.1 Default by Seller. The occurrence of any of the following events will constitute a Seller Event of Default:

16.1.1. Incorrect Representation or Warranty. Any Seller representation or warranty in this PPA or in any certificate or other document delivered to GPC in accordance with this PPA proves to be incorrect in any material respect when made, unless Seller promptly commences and diligently pursues action to cause the representation or warranty to become true in all material respects and does so within 30 Days after GPC provides Seller notice of the incorrect representation or warranty (unless the cure is not capable of being accomplished within the 30 Days, in which case Seller will have an additional 30 Days to perform the cure) and the cure removes any material adverse effect on GPC of the incorrect representation or warranty.

16.1.2. Involuntary Bankruptcy, Insolvency, or Reorganization. A court having jurisdiction enters: (i) a decree or order for relief in respect of Seller in an involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization, or other similar law; or (ii) a decree or order, the entry of which was sought by an entity other than Seller, adjudicating Seller bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment, or composition of or in respect of Seller under any applicable Federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of Seller or of any substantial part of its affairs.

16.1.3. Voluntary Bankruptcy, Insolvency or Reorganization. Seller: (i) commences a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization, or other similar law or any other case or proceeding to be adjudicated bankrupt or insolvent; (ii) consents to the entry of a decree or order for relief in respect of Seller in any involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization, or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against Seller; (iii) files any petition, answer, or consent seeking reorganization or similar relief under any applicable federal or state law, which, if granted would have the effect of relieving Seller of any of

its obligations; (iv) consents to the filing of any petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of Seller or of any substantial part of its property; (v) makes an assignment for the benefit of creditors; (vi) admits in writing its inability to generally pay its debts as they become due; or (vii) takes any action in furtherance of any of the preceding.

16.1.4. Failure to Comply with Performance Security Requirements. (i) Seller fails to comply or cause compliance with: (a) Performance Security requirements of Section 6.1 (*Performance Security*); or (b) the Upgrade Security requirements of Section 7.4 (*Grid Cost Improvements*); or (ii) Seller Guarantor breaches any of its obligations under the Seller Guaranty or if any representation or warranty Seller Guarantor made in the Seller Guaranty is incorrect in any material respect when made, unless Seller cures any of the preceding by the end of the fifth Business Day following Seller's receipt of GPC's written notice of a failure under this Section 16.1.4.

16.1.5. Failure to Comply with Other Material PPA Terms. Seller fails to perform or observe any material PPA obligation of Seller, other than those obligations specifically addressed in this Section 16.1 (*Default By Seller*), which failure continues for a period of 30 Days after written notice thereof from GPC, unless the cure is not capable of being effected within a 30-Day period, in which case Seller will have an additional 30-Day period in which to perform the cure.

16.1.6. Failure To Comply with PPA Assignment Requirements. Seller violates the requirements of Part 18 (*Assignment, Transfers, and Changes of Control*) through an assignment or transfer of this PPA or an ownership interest in the Facility or through a Change of Control Transaction.

16.1.7. Failure to Pay Amounts Due to GPC. Seller fails, by the due date, to pay GPC any undisputed amount payable by Seller to GPC under this PPA and fails to cure the failure to pay within 15 Days after receipt of written demand from GPC.

16.1.8. Storage Performance Metric Achieved Below .75. The Storage Performance Metric Achieved, as calculated by GPC in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*), is below .75 for any three consecutive Months period; or (ii) six Months in any 12 Month period.

16.1.9. Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies. Despite any other PPA provision, the Tested Storage Capacity, determined in accordance with a Performance Test at any time after the Delivery Commencement Date, is below 70% of the Contracted Capacity and Seller fails to: (i) submit to GPC, within 10 Days after determination by the Performance Test of the inadequate Tested Storage Capacity, a written cure plan reasonably acceptable to GPC for the inadequate Tested Storage Capacity; and (ii) cure the inadequate Tested Capacity within the Cure Period, except that the Cure Period may be extended in accordance with Section 16.1.9(i) (*Cure Period Extension*). GPC will have the right to declare an Event of Default if Seller fails to: (a) establish the cure plan within the required 10-Day period or, if applicable, establish the revised cure plan within the required 15-Day period under Section 16.1.9(i), or (b) diligently implement the cure plan (including implementation of such actions as GPC may reasonably request), or (c) cure the inadequate Tested Storage Capacity within the Cure Period (as the Cure Period may be extended under Section 16.1.9(i)) as set forth in Section 16.1.9(ii) (*Requirements to Cure Inadequate Tested Storage Capacity*).

> **(i) Cure Period Extension.** If Seller establishes a cure plan in accordance with Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity*; *Cure; Remedies*) but requires a Cure Period of more than 120 Days to cure the inadequate Tested Storage Capacity, then the Cure Period will be extended for a reasonable additional period of time, which extension will not in any case exceed 60 Days, so long as, by no later than 15 Days before the expiration of the 120-Day Cure Period, Seller provides to GPC: (a) a revised cure plan setting forth a reasonable extension of the Cure Period, not to exceed 60 Days, which revised cure plan and extension must be reasonably acceptable to GPC, and (b) a written certification reasonably acceptable to GPC confirming that in order for Seller to cure the inadequate Tested Storage Capacity Seller must be afforded the requested additional

period of time. The total duration of the Cure Period, as extended, must not exceed 180 Days.

(ii) Requirements to Cure Inadequate Tested Storage Capacity. An inadequate Tested Storage Capacity below 70% of the Contracted Capacity, will be cured under Section 16.1.9 only if: (i) Seller provides GPC with a written certification reasonably acceptable to GPC confirming that the inadequate Tested Storage Capacity has been cured; and (ii) the inadequate Tested Storage Capacity is increased to a value equal to or greater than 70% of the Contracted Capacity.

(iii) GPC Election. Despite Section 16.1.9, whenever a Performance Test demonstrates a Tested Storage Capacity below 70% of the Contracted Capacity and Seller fails to cure the inadequate Tested Storage Capacity as required by Section 16.1.9(ii), GPC will have the unilateral right to elect to require and receive buydown liquidated damages as specified in Section 1.3.4 of Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*) in lieu of terminating the PPA. To elect this remedy, GPC must notify Seller in writing of this election and must waive its right to declare a Seller Event of Default under Section 16.1.9 with respect to the specific event of inadequate Tested Storage Capacity. GPC's waiver is limited to the specific event of inadequate Tested Storage Capacity and does not waive any additional event.

16.1.10. Failure to Meet AGC Performance Requirements. Seller fails to achieve the AGC Status Performance Requirement or the AGC Setpoint Response Performance Requirement for: (i) any three consecutive Months period; or (ii) six Months in any 12 Month period.

16.1.11. Breach of Energy Delivery Obligation. Seller breaches its obligation to deliver energy in accordance with GPC's AGC Setpoint signals to the extent that the Facility is Available, and the breach continues for more than two Hours after GPC provides Seller with written notice of the breach.

16.1.12. Abandonment or Failure to Achieve RCOD. Seller abandons the development or construction of the Facility before COD, Seller fails to achieve Commercial Operation of the Facility by no later than nine Months after the RCOD, or Seller notifies GPC that Seller has reasonably determined that Seller will not achieve Commercial Operation or that Commercial Operation will not be achieved by no later than nine Months after the RCOD.

16.1.13. Reserved.

16.1.14. Adjusting Meter or Interconnection Facilities without GPC's Consent. Seller or any Seller Representative willfully adjusts the Metering System or the Interconnection Facilities without GPC's written consent and which adjustment has the effect of falsely increasing any amount owed by GPC under this PPA.

16.1.15. Breach of Covenant. Any failure of any covenant made by Seller in Section 2.1 (Seller Representations, Warranties, and Covenants), unless Seller promptly commences and diligently pursues action and cures the failure by no later than 30 Days after notice of the failure has been given to Seller by GPC (unless the cure is not capable of being effected within the 30-Day period in which case Seller must submit a cure plan before the end of the 30-Day period outlining steps to assure GPC that the failure will be cured, which cure plan will be subject to GPC's approval, the approval not to be unreasonably withheld by GPC, but in no event will the total cure period exceed 180 Days) and the cure removes any adverse effect on GPC of the failure of such covenant. However, no Event of Default by Seller will occur in accordance with this Section 16.1.14 unless GPC cooperates with Seller during the cure period and, if applicable, takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to bring about a determination by GPC and its independent auditor that Seller does not constitute a VIE as because of this PPA.

16.1.16. VIE Consolidation. GPC is required by any applicable law or any accounting standard, including those implemented or administered by FASB, to consolidate Seller or any of its Affiliates or permitted assigns as a VIE in GPC's or any of GPC's Affiliates' financial statements and the condition continues for a period of 30 Days after written notice from GPC unless the cure is not

capable of being effected within the 30-Day period, in which case Seller will have an additional 30-Day period in which to commence the cure and then diligently pursues the cure and completes the cure within 60 Days. GPC may seek remedies in accordance with Section 16.3 (*Remedies*) for a Seller Event of Default caused under this Section 16.1.16. However, upon termination of this PPA, if Seller can clearly demonstrate that the Seller Event of Default was not caused by any direct or indirect action by Seller, the Seller will have no further liability or obligation to GPC except for any obligation arising prior to the date of the termination. However, no Event of Default by Seller will occur under this Section 16.1.16 regarding: (i) Section 2.1.8 (*VIE Certification*) if Seller cooperates with GPC during the cure period and Seller takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to bring about a determination by GPC and its independent auditor that Seller does not constitute a VIE in GPC's or any of its Affiliates' financial statements for which GPC is the Primary Beneficiary as a result of this PPA; or (b) Section 2.1.14 (*Environmental Compliance Certification*) if GPC determines in its sole discretion, that the incorrect representation, warranty, or covenant is not material, Seller cooperates with GPC during the cure period, and Seller takes commercially reasonable actions (without causing a material adverse effect on GPC) necessary to correct the immaterial representation, warranty, or covenant to GPC's satisfaction. Despite the preceding subpart (i), if GPC becomes a Primary Beneficiary by no fault of Seller and a cure cannot be effected within the cure period, it will not be an Event of Default, but GPC may terminate this PPA and Seller will not have any further liability to GPC pursuant to this PPA.

16.1.17. Applicable Law Violation. Seller violates any applicable law and the violation would have a material adverse effect on Seller's ability to perform under this PPA and such violation is not cured within 30 Days after written notice from GPC unless the cure is not capable of being effected within the 30-Day period, in which case Seller will have an additional 30-Day period in which to commence the cure and thereafter diligently pursues the cure and completes the cure within 60 Days and the cure removes any material adverse effect on Seller's ability to perform under this PPA. Seller will be deemed not to have committed an Event of Default hereunder if Seller has validly contested the alleged violation, the matter remains pending before the applicable Governmental Authorities, and any cease and desist order or other enforcement action due to an alleged violation of the applicable laws has been stayed.

16.2 Default by GPC. The occurrence of any of the following events will constitute a GPC Event of Default:

16.2.1. GPC Payment Default. GPC fails to pay Seller any undisputed amount payable by GPC to Seller in accordance with this PPA for 15 Business Days after the payment became due, and GPC fails to cure the failure to pay within 15 Days after GPC receives Seller's written demand for payment.

16.2.2. Failure to Comply with Other Material PPA Terms. GPC fails to perform or observe any material obligation of GPC under this PPA, other than those obligations included in this Section 16.2 (*Default by GPC*), which failure materially and adversely affects the ability of Seller or GPC to perform their respective obligations under this PPA and continues for a period of 30 Days after written notice thereof from Seller (unless the cure is not capable of being effected within the 30-Day period, in which case GPC will have an additional 30-Day period in which to perform the cure).

16.2.3. Incorrect Representation or Warranty. Any representation or warranty made by GPC in this PPA or in any certificate or other document delivered to Seller in accordance with this PPA proves to be incorrect in any material respect when made, unless GPC promptly commences and diligently pursues action to cause the representation or warranty to become true in all material respects and does so within 30 Days after Seller has given GPC notice (unless the cure is not capable of being effected within such 30-Day period in which case GPC will have an additional 30-Day period in which to perform the cure) and the cure removes any material adverse effect on Seller because of the representation or warranty having been incorrect.

16.2.4. Involuntary Bankruptcy, Insolvency, or Reorganization. A court having jurisdiction enters: (i) a decree or order for relief in respect of GPC in an involuntary case or proceeding under

any applicable Federal or state bankruptcy, insolvency, reorganization or other similar law; or (ii) a decree or order adjudicating GPC bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or regarding GPC under any applicable Federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of GPC or of any substantial part of its affairs.

16.2.5. Voluntary Bankruptcy, Insolvency, or Reorganization. GPC: (i) commences a voluntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization, or other similar law or any other case or proceeding to be adjudicated bankrupt or insolvent; (ii) consents to the entry of a decree or order for relief in respect of GPC in any involuntary case or proceeding under any applicable Federal or state bankruptcy, insolvency, reorganization, or other similar law, or to the commencement of any bankruptcy or insolvency case or proceeding against it; (iii) files any petition, answer, or consent seeking reorganization or similar relief under any applicable Federal or state law, which, if granted would have the effect of relieving GPC of any of its obligations; (iv) consents to the filing of any petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator, or similar official of GPC or of any substantial part of its property; (v) makes an assignment for the benefit of creditors; (vi) admits in writing its inability to generally pay its debts as they become due; or (vii) takes any action in furtherance of any of the foregoing.

16.2.6. Failure to Comply with PPA Assignment Requirements. GPC violates the requirements of Part 18 (*Assignment, Transfers, Changes of Control*) through an assignment or transfer of this PPA.

16.2.7. Material Violation of Applicable Law. GPC violates an applicable law and the violation would have a material adverse effect on GPC's ability to perform under this PPA and the violation is not cured within 30 Days after GPC receives Seller's written notice. If the cure is not capable of being effected within the 30-Day period, GPC will have an additional 30-Day period in which to commence the cure and after commencing the cure GPC will diligently pursue the cure and complete the cure within 60 Days. The cure must remove the material adverse effect(s) on GPC's ability to perform under this PPA. GPC will be deemed not to have committed an Event of Default under this PPA if GPC has validly contested the alleged violation, the matter remains pending before the applicable Governmental Authorities, and the cease and desist order or other enforcement action due to an alleged violation of the applicable laws has been stayed.

16.3 Remedies.

16.3.1. Remedies for Event of Default. If an Event of Default occurs at any time during the Term, the Party not in default under this PPA ("**Non-Defaulting Party**") may, for so long as the Event of Default is continuing, subject to Part 19 (*Dispute Resolution*), take one or more of the following actions: (i) establish a date, no later than 10 Business Days after the Non-Defaulting Party delivers to the Party in default under this PPA ("**Defaulting Party**") written notice of the date, on which this PPA will terminate ("**Early Termination Date**"); (ii) proceed by appropriate proceedings in accordance with this PPA at law, in equity, or otherwise, to protect and enforce: (a) Non-Defaulting Party's right to actual or liquidated damages; or (b) where the Event of Default is one other than the failure to pay money, equitable relief, including specific performance; and (iii) immediately stop performance or withhold any payments, or both, due under this PPA.

16.3.2. Gains, Losses, Costs, or Damages. If an Early Termination Date has been established and Non-Defaulting Party has not successfully pursued an action for specific performance or is not excused from the payment of damages under Section 16.1.16 (*VIE Consolidation*), Non-Defaulting Party will in good faith calculate its Gains, Losses, or Costs resulting from the PPA termination, aggregate into a single net amount Gains, Losses, or Costs, and then notify Defaulting Party. If Non-Defaulting Party's aggregate Losses and Costs exceed Non-Defaulting Party's aggregate Gains, Defaulting Party will, unless Defaulting Party disagrees with the calculation, within 15 Business Days after receipt of such notice, pay to Non-Defaulting Party the net amount ("**Termination Payment**"). The Termination Payment will bear interest at the Interest Rate from the Early Termination Date until paid to Non-Defaulting Party. If Non-Defaulting Party's aggregate Gains exceed aggregate Losses

and Costs, if any, resulting from the PPA termination, Non-Defaulting Party may retain the Gains. If Defaulting Party disagrees with the calculation of the Termination Payment, the issue will be resolved in accordance with Part 19 (*Dispute Resolution*) provisions applicable to Termination Payment disputes, and the resulting Termination Payment will be due by no later than three Business Days after the award. Despite any provision in this PPA, for any GPC PPA termination for a Seller Event of Default under Section 16.1.12 (*Abandonment or Failure to Achieve RCOD*), rather than the application of a calculation of Gains, Losses, or Costs resulting from the PPA termination, the Termination Payment will be liquidated damages equal to the applicable amount shown in Exhibit A-2 (*Performance Security and Liquidated Damages*), prorated based on the effective date of the termination, and Seller must pay to GPC all other damages specified in Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*).

16.3.3. Determining Gains, Losses, and Costs. Gains, Losses, or Costs will be determined by comparing the cost of the capacity that would be available for the remainder of the Term had this PPA not been terminated to the market price of capacity of equivalent reliability and dispatch flexibility for the remaining Term (had this PPA not been terminated). Nothing in Part 6 (*Performance Security*) is intended to limit liability under this Section 16.3 (*Remedies*). To ascertain the market price, Non-Defaulting Party may consider, among other evidence, the settlement prices of NYMEX energy futures contracts, quotations from leading dealers in energy and gas swap contracts, offers for replacement capacity and energy, or bids to purchase the remaining capacity that was to be sold in accordance with this PPA, in either case made by bona fide third-parties (including offers Non-Defaulting Party received in response to any request for proposals for capacity contracts), all adjusted for the length of the remaining Term (as of the PPA termination date) and differences in locational basis (including costs of transmission investments and transmission service), reliability, dispatch flexibility, and any other considerations affecting value. Neither Party will be required to enter into replacement transactions to determine the Termination Payment. As used in this Section: (i) "**Costs**" means: Brokerage fees, commissions, and other similar transaction costs and expenses reasonably incurred by a Party either in terminating any agreement it has entered into to fulfill its obligations under this PPA or entering into new agreements which replace this PPA, and attorneys' fees, if any, incurred enforcing its rights under this PPA; (ii) "**Gains**" means: An amount equal to the economic benefit determined on a mark to market basis (exclusive of Costs), if any, to the Non-Defaulting Party resulting from the termination of this PPA; and (iii) "**Losses**" means: An amount equal to the economic loss determined on a mark to market basis (exclusive of Costs), if any, to the Non-Defaulting Party resulting from the termination of this PPA.

16.4 Rights of Specific Performance. For an Event of Default, the Parties recognize that a remedy at law may be inadequate because this PPA is unique or because the actual damages of the Non-Defaulting Party may exceed any guaranty or other collateral available to the Non-Defaulting Party. The Parties agree that in an Event of Default for which this PPA has not prescribed a specific remedy, Non-Defaulting Party will be entitled to pursue an action for specific performance, and Defaulting Party waives Defaulting Party's rights to assert as a defense to a specific performance action that the Non-Defaulting Party's remedy at law is adequate. The Non-Defaulting Party will not be entitled to receive both specific performance and a Termination Payment from the Defaulting Party.

16.5 Limitation of Remedies, Liability, and Damages. Each Party confirms that the express remedies and measures of damages provided in this PPA satisfy the essential purpose of this PPA for breach of any provision for which an express remedy or measure of damages is provided, in which event the express remedy or measure of damages will be the exclusive remedy, subject to Section 19.6 (*Injunctive Relief*) regarding injunctive relief. Except to the extent expressly provided in Section 7.3 (*Failure to Achieve Commercial Operation by RCOD*), where an express remedy or measure of damage is provided, the Party's liability will be limited as set forth in the provision and all other remedies or damages at law or in equity are waived. However, if no remedy or measure of damages is expressly provided in this PPA, and subject to Section 19.6, a Party's liability will be limited to direct, actual damages only. The direct, actual damages will be the exclusive remedy and all other remedies or damages at law or in equity are waived. The Parties explicitly agree and intend that Section 7.3.1 (*Delay Liquidated Damages*), Exhibit B (*Capacity; Capacity Payments and Payment Reductions; Buydown*), and Exhibit C (*Monthly Capacity Payments; Monthly Capacity*

***Reductions; AGC Performance Metrics and Requirements*) will be fully enforceable by any court exercising jurisdiction over any dispute between the Parties arising under this PPA. Each Party irrevocably waives any defense available to it under applicable law or equity relating to the enforceability of the liquidated damages provisions set forth in Section 7.3.1, Exhibit B, and Exhibit C.**

16.6 Waiver of Consequential Damages. Unless expressly provided in this PPA, neither Party nor its Affiliates will be liable for: (i) consequential, incidental, special, punitive, exemplary, treble, or indirect damages (including lost profits; loss of use, income tax benefit, data, business opportunity or anticipated savings; idled equipment costs; or increased overhead, financing, or operating costs); or (ii) other business interruption damages arising out of this PPA, any damage or delay in connection with this PPA, a Party's act or failure to act, or a Party's performance or non-performance under this PPA, whether or not reasonable, foreseeable, contemplated, or avoidable and whether by statute, in tort or contract, under any indemnity provision, or otherwise. The preceding sentence will not apply: (a) for amounts owed to a third party for which this PPA requires indemnification; (b) to limit the liability of Seller for liquidated damages specified in this PPA; (c) to limit the liability of a Person whose actions giving rise to the liability constitute gross negligence or willful misconduct; or (d) to limit or reduce the amounts owed by a defaulting Party under Section 16.3 (*Remedies*), it being expressly agreed that no portion of any amount owed under Section 16.3 will be considered consequential damages and it being expressly agreed that the lost value of any investment tax credit (ITC), production tax credit (PTC), or any other similar Tax credit or benefit will be considered consequential damages. To the extent any damages required to be paid under this PPA are liquidated, the Parties acknowledge that: (I) the actual damages likely to be incurred are difficult or impossible to determine; (II) otherwise obtaining an adequate remedy is inconvenient; and (III) the liquidated damages do not constitute a penalty and are a reasonable approximation of the actual harm or loss. Despite any other provision in this PPA, in no event will GPC's liability to Seller for a termination payment under this PPA exceed an amount equal to the sum of any amounts then owed by GPC under this PPA plus the total of all remaining monthly capacity payments following termination that would have been payable to Seller under this PPA had the PPA remained in effect through the end of the Term. The limitations in Section 16.5 (*Limitation of Remedies, Liability, and Damages*) and this Section 16.6 apply regardless of fault and will survive PPA termination, cancellation, suspension, completion, or expiration.

16.7 Disclaimer of Warranties. There are no warranties under this PPA except to the extent specifically set forth in this PPA. The Parties specifically disclaim and exclude all implied warranties, including the implied warranties of merchantability and of fitness for a particular purpose.

16.8 No Interruption. Except as otherwise provided in this PPA, unless this PPA has been terminated, neither Party will, because of any breach or alleged breach by the other Party: (i) refuse to deliver, or suspend or delay any delivery of, capacity or associated energy to be provided under this PPA; (ii) refuse to take energy to the extent required under this PPA; or (iii) suspend, delay, or refuse to make any of the payments required under this PPA.

16.9 Duty to Mitigate. Despite any other provision of this PPA, each Party must: (i) mitigate damages; and (ii) use commercially reasonable efforts to minimize any damages it may incur because of the other Party's performance or non-performance.

PART 17 COMPLIANCE WITH LAWS

17.1 Change of Law. "**Change of Law**" means an applicable law enacted after the Effective Date that requires Seller to install additional or different equipment at the Facility or otherwise modify the Facility in order to comply with applicable law. "**Change of Law Capital Expenditures**" means additional capital expenditures (determined in accordance with GAAP) reasonably incurred by Seller in accordance with Prudent Industry Practices for additional or different equipment installed at the Facility during the Term, or for other modifications to the Facility during the Term, as a direct result of a Change of Law and as necessary for the Facility as operated under this PPA to comply with the Change of Law during the Term. Capital expenditures will not constitute Change of Law Capital Expenditures unless GPC, using Prudent Industry

Practices, would incur the same capital expenditures regarding its own facilities of the same type as the Facility as a result of the requirements of the Change of Law (taking into account differences in facility capacity, location, and the frequency and duration of facility dispatch). Change of Law Capital Expenditures will be appropriately pro-rated based on: (i) the remaining Term divided by the useful life of the applicable capital addition or modification; and (ii) the Contracted Capacity divided by the total Facility capability, if applicable. Change of Law Capital Expenditures will be net of any cost savings to Seller resulting from the capital addition or modification.

17.1.1. Notice and Periodic Updates. If Seller determines that any Change of Law Capital Expenditures will be incurred because of a Change of Law (including costs less than the Threshold Amount), Seller must notify GPC of a Change of Law by no later than six Months after the enactment of the applicable Change of Law ("**Change of Law Notice**").The Change of Law Notice must include: (i) a discussion of the relevant Change of Law; (ii) Seller's plan to comply with the Change of Law (including the additional or different equipment at the Facility or other modification of the Facility required to comply with the Change of Law); and (iii) reasonable documentation of Seller's determination of Change of Law Capital Expenditures (or estimate of Change of Law Capital Expenditures if actual costs are not known). Seller must provide GPC with periodic updates regarding Seller's compliance plan and Change of Law Capital Expenditures. Seller must provide additional relevant information as GPC may reasonably request.

17.1.2. Excess Change of Law Capital Expenditures. If one or more Change of Laws would cause Seller to incur Change of Law Capital Expenditures (in the aggregate) in excess of 10% of the Annual Capacity Price multiplied by the Contracted Capacity (kW) in any given Annual Period or, if pre-COD, the first Annual Period ("**Threshold Amount**"), and if Seller submitted a Change of Law Notice(s) for such Change of Law(s) in accordance with Section 17.1.1 (*Notice and Periodic Updates*), then Seller may, through written notice to GPC ("**Excess Capital Expenditures Notice**"), request GPC's approval, in GPC's sole discretion, of Seller's recovery of the incremental capital expenditures in excess of the Threshold Amount (the excess amount, "**Excess Change of Law Capital Expenditures**") through an adjustment to the Annual Capacity Price, except no adjustment will be allowed to an Annual Capacity Price for any Annual Period before Seller incurring Excess Change of Law Capital Expenditures. Seller may also propose to GPC in the Excess Capital Expenditures Notice operational changes that would allow for avoidance of Change of Law Capital Expenditures ("**Change of Law Operational Alternatives**"). For purposes of calculating the adjustment to the Annual Capacity Price associated with capitalized additions or modifications to the Facility (determined in accordance with GAAP), the Parties will, each acting in good faith and in a commercially reasonable manner, establish an appropriate annual fixed charge rate for application to the original capital cost of the additions, modifications, or other capital expenditures. This calculation will represent the total cost associated with the identified addition or modification, including depreciation, carrying costs, and any other cost or expense item related to capital investments. Seller may not seek recovery of any Change of Law Capital Expenditures for which Seller did not submit a Change of Law Notice under Section 17.1.1. The Excess Capital Expenditures Notice must supplement the Change of Law Notice, including addressing in detail the Excess Change of Law Capital Expenditures and setting forth Seller's calculations for the proposed increase in the Annual Capacity Price(s), as determined in accordance with this Section 17.1.2. Seller must demonstrate that: (i) Seller's proposed plan for complying with the Change of Law is reasonable and conforms with Prudent Industry Practices; and (ii) the Excess Change of Law Capital Expenditures are reasonable, consistent with Prudent Industry Practices, required for compliance with the Change of Law, and otherwise comply with this Section 17.1. Seller must promptly provide any other information reasonably requested by GPC concerning GPC's analysis of and response to Seller's Excess Capital Expenditures Notice.

17.1.3. Election Notice. By no later than 365 Days after receipt of Seller's Excess Capital Expenditures Notice, GPC will inform Seller by written notice of whether GPC, in its sole discretion, accepts or rejects Seller's proposed adjustment to the Annual Capacity Price(s) to recover Excess Change of Law Capital Expenditures or accepts or rejects the Change of Law Operational Alternatives ("**GPC Election Notice**"). If GPC does not notify Seller of GPC's decision within the 365-Day period, GPC will be deemed to have rejected Seller's proposed adjustment to the Annual

Capacity Prices and Seller's Change of Law Operational Alternatives. Under no circumstance will GPC's rejection of a proposed adjustment to Annual Capacity Price(s) or Seller's recovery of Excess Change of Law Capital Expenditures, or GPC's rejection of Seller's Change of Law Operational Alternatives constitute an Event of Default under Part 16 (*Default and Remedies*).

17.1.4. Seller Response Notice; GPC Response. If GPC, in its sole discretion, rejects or is deemed to have rejected Seller's request to recover Excess Change of Law Capital Expenditures and Seller's Change of Law Operational Alternatives addressed in Seller's Excess Capital Expenditures Notice, Seller must, by no later than the Seller Response Deadline, provide its Seller Response Notice of whether Seller elects to: (i) pay Change of Law Capital Expenditures (including Excess Change of Law Capital Expenditures); or (ii) terminate this PPA effective as of the date set forth in the Seller Response Notice (which date will be no earlier than 365 Days after the date of the Seller Response Notice). The "**Seller Response Deadline**" is the date that is 30 Days after the earlier of: (a) GPC Election Notice date; or (b) 365 Days after GPC's receipt of Seller's Excess Capital Expenditures Notice if GPC did not provide a GPC Election Notice. If Seller does not provide a Seller Response Notice by no later than the Seller Response Deadline, Seller will be deemed to have: (I) waived Seller's option to terminate this PPA because of the relevant Change of Law(s) and Change of Law Capital Expenditures; and (II) elected to pay for the Change of Law Capital Expenditures (including Excess Change of Law Capital Expenditures). Despite any provision in this PPA, if by the Seller Response Deadline Seller elects to terminate this PPA in a Seller Response Notice, GPC will have the right to elect by written notice, delivered to Seller within 60 Days after GPC receives the Seller Response Notice, to accept Seller's proposed adjustment to the Annual Capacity Price(s) or Change of Law Operational Alternatives as set forth in Seller's Excess Capital Expenditures Notice, and this PPA will not terminate and will continue in full force with the adjustment to Annual Capacity Price(s) or inclusion of Change of Law Operational Alternatives. If GPC does not provide written notice within the 60-Day period, then GPC will be deemed to have waived the election and this PPA will terminate in accordance with the Seller Response Notice (on the date set forth in the Seller Response Notice). The termination date will be no earlier than 365 Days after the date GPC receives the Seller Response Notice. Seller will be responsible for all Change of Law Capital Expenditures incurred before the effective date of the termination. Following the effective date of the termination, neither Party will have any further liability to the other Party except for any obligations incurred prior to the effective date of the termination.

17.1.5. Annual Capacity Price Adjustments. The Parties acknowledge that, except as provided in Sections 17.1.2 (*Excess Change of Law Capital Expenditures*), 17.1.3 (*Election Notice*), and 17.1.4 (*Seller Response Notice; GPC Response*), the Annual Capacity Prices will not be adjusted because of a Change of Law or Change of Law Capital Expenditures. If GPC has elected under Section 17.1.2 or Section 17.1.3 to accept Seller's proposed adjustment to Annual Capacity Prices to recover Excess Change of Law Capital Expenditures, Seller may not seek any additional adjustment to Annual Capacity Prices for the same Change of Law(s) addressed in such GPC election (including for any additional or different Change of Law Capital Expenditures arising from such Change of Law(s)). Any election by GPC under Section 17.1.2 or Section 17.1.3 to allow Seller to recover Excess Change of Law Capital Expenditures will apply only to the Change of Law and Excess Change of Law Capital Expenditures addressed in GPC's election.

17.1.6. New or Different Changes in Applicable Law; Payments. Seller acknowledges and agrees that except as provided in this Part 17: (i) GPC will not be responsible for any costs or expenses incurred by Seller in connection with the Facility or the performance of Seller's obligations under this PPA that result from new or different or other changes in applicable law (including any change in an interpretation of any applicable law); and (ii) in no event will the payments required to be made by GPC under this PPA be increased because of any cost or expense that Seller incurs because of new or different or other changes in applicable law (including any change in an interpretation of any applicable law).

17.2 No Dedication. No undertaking by Seller under this PPA is intended to constitute: (i) the dedication to the public of the Facility or any part of the Facility; or (ii) affect Seller's status as an independent entity and not a public utility or public service company.

17.3 Compliance. Throughout the Term, Seller must comply with all applicable laws, including Environmental Laws (including all Consents and any applicable law pertaining to environmental emissions) regarding the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Facility, including all required Consents. Seller's compliance with Environmental Laws includes: (i) the performance of all studies required or recommended under Environmental Law to assess the impacts of the Facility on the environment, wildlife, or cultural resources; and (ii) the mitigation of environmental impacts, including all requirements to seek, obtain, maintain, comply with, and, as necessary, renew or modify from time to time, all applicable certificates, licenses, permits, Governmental Authority approvals, environmental certificates, and environmental impact analyses, including any mitigation measures to reduce or avoid impacts to environmental, wildlife, or cultural resources, including any species conservation strategy or conservation agreement and any cultural resources treatment plan. Seller will be responsible for all costs, expenses, charges, and fees concerning all compliance required in this Section 17.3.

17.4 Compliance with Required BMPs and Recommended Best Practices. On a regular basis throughout the Term, or as otherwise may be required by any Governmental Authority, Seller must review and maintain, and comply with all Required BMPs regarding the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Facility. "**Required BMPs**" are those "Best Management Practices" required or recommended by a Governmental Authority, as made available at https://gadnr.org or, for a facility outside Georgia, similar best management practices applicable in the state where the Facility is located. 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 will take steps to regain compliance in accordance with any requirement of any applicable Governmental Authority or otherwise as promptly as commercially practicable. Seller must review all updates to, and any new, Required BMPs on a regular basis during the Term and must take steps as may be required to comply with any new or updated Required BMPs in accordance with this Section 17.4. In addition, on a regular basis throughout the Term, Seller must review all "Recommended Practices" published by the Georgia DNR and made available at https://gadnr.org ("**Recommended Best Practices**") regarding the design, construction, ownership, operation, maintenance, and decommissioning (if applicable) of the Facility. Seller must, at all times, act in good faith and use all commercially reasonable efforts to maintain and comply with all Recommended Best Practices. Seller must review all updates to, and any new, Recommended Best Practices on a regular basis during the Term and will take steps to comply with the same in accordance with this Section 17.4. If, while acting in good faith and using all commercially reasonable efforts Seller is unable to comply with any Recommended Best Practices during the Term, Seller must notify GPC of this inability and the reasons it is not able to comply, and the Parties will meet to discuss steps that Seller may take to achieve compliance, or partial compliance to GPC's reasonable satisfaction.

17.5 Wildlife. If any species survey or study indicates that a direct or indirect taking of wildlife listed as threatened, endangered, or other special status under Environmental Laws, or any impacts to habitat of such wildlife, will occur as a result of development or construction activities (including due to grading, ground disturbance, tree clearing, or nest removal) or during operation of the Facility, Seller will consult with the relevant Governmental Authority to determine whether incidental take authorization or a species habitat conservation or management plan is required under Environmental Laws for the Facility or the Site. If required by any Permit, Seller will develop and share with GPC a plan for addressing such impacts. During development and construction of the Facility, any wildlife protected by Environmental Laws discovered on the Site must be reported by Seller in accordance with any applicable conservation or management plans.

17.6 Notices of Violations and Potential Violations; NOV Remediation Plan.

17.6.1. Notices of Violations. Within seven Days after receipt, Seller must provide GPC with copies of any written notification from any Governmental Authority alleging that Seller is in violation of any law, including any Environmental Law applicable to the Facility or the Site with respect to the design, construction, ownership, operation, maintenance, or decommissioning of the Facility (an "**NOV**").

17.6.2. NOV Remedy Plan. Upon GPC's request, Seller must prepare and submit to GPC an "**NOV Remedy Plan**" setting forth Seller's plan and schedule for mitigation and other remedial measures to cure such NOV as soon as reasonably practicable and in accordance with any requirements of

any applicable Governmental Authority. Seller must diligently pursue the performance of the NOV Remedy Plan to completion.

17.6.3. Monthly Status Reports and Updates to NOV Remedy Plan. While an NOV Remedy Plan is in effect, Seller must provide Monthly status reports to GPC, notifying GPC of the implementation of the NOV Remedy Plan, including the steps taken to remedy the NOV, any change to the NOV Remedy Plan, any impact on Seller's performance of its obligations under this PPA, as well as any additional relevant information as may be reasonably requested by GPC. Seller must modify the NOV Remedy Plan if and as required to comply with any requirement of any applicable law or Governmental Authority.

PART 18 ASSIGNMENT, TRANSFERS, AND CHANGES OF CONTROL

18.1 Assignment and Assumption of Obligations.

18.1.1. Seller Assignment Requirements.

(i) Seller Assignment. Seller must not assign to any Person this PPA in whole or in part without GPC's prior written consent. However, Seller may, without GPC's consent, assign this PPA to a financing party for collateral security purposes in connection with a financing or refinancing of the Facility, and GPC will execute a reasonable written consent to the collateral assignment in a form acceptable to GPC if the financing party reasonably requests the consent. Any proposed assignee of this PPA must: (a) agree to assume Seller's PPA obligations; and (b) deliver to GPC, on GPC's reasonable request, assurances regarding the assignee's Creditworthiness and the assignee's ability to perform all Seller obligations under this PPA.

(ii) Release. Any assignment of this PPA made in compliance with Section 18.1.1(i) (*Seller Assignment*) will constitute, as of the assignment effective date, assignee's acceptance and assumption of Seller's PPA obligations and GPC's release and discharge of Seller from the obligations as of the assignment effective date.

(iii) Execution and Submission of Notice of Assignment Form. If GPC executes the written consent to assign this PPA, the assignee (new Seller) must execute and submit to GPC the notice of assignment (a form of which will be provided in conjunction with GPC's provision of written consent to the assignment), no later than five Business Days after the effective date of the assignment.

(iv) Estoppels Related to Financing or Purchasing of Interest. Upon Seller's reasonable request to GPC, GPC agrees to execute a written confirmation that, if true, then to the best of GPC's knowledge at the time of the request, Seller is not in default of this PPA.

18.1.2. GPC Assignment. GPC may not assign this PPA or any portion of this PPA to any Person except a Creditworthy Affiliate without the prior written consent of Seller.

18.2 Restrictions Regarding Assignment, Transfer, or Change of Control. Seller agrees that, except as permitted under Section 18.1.1 (*Seller Assignment Requirements*), without GPC's prior written consent there will be no: (i) assignment or transfer of any interest in the Facility; (ii) Change of Control Transaction regarding Seller; or (iii) delegation by Seller of the operational responsibility for the Facility.

18.3 Reimbursement for GPC's Costs. Seller agrees that, in the event Seller assigns or transfers an interest in the Facility or this PPA, as the transactions are described in Section 18.1.1 (*Seller Assignment Requirements*) and Section 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*), Seller must pay GPC twenty-five thousand dollars ($25,000.00) per occurrence for each and any proposed transaction and must pay to GPC ten thousand dollars ($10,000) per occurrence for each and any request for an estoppel in accordance with Section 18.1.1(iv) (*Estoppels Related to Financing or Purchasing of Interest*). If Seller requests GPC's consent under Section 18.1.1 or Section 18.2, and GPC undertakes drafting of consent documents or amendments to provide consent, and Seller thereafter fails to

consummate the proposed transaction, GPC reserves the right, in its sole discretion, to require Seller to provide reimbursement to GPC in accordance with this Section 18.3.

18.4 General Requirements. Each Party acknowledges that any consent required by Sections 18.1 (*Assignment and Assumption of Obligations*) or 18.2 (*Restrictions Regarding Assignment, Transfer, or Change of Control*) will not be unreasonably withheld, conditioned, or delayed, but, neither Party will be required to accept a limitation of its rights under this PPA or an expansion of the liability, risks, or obligations imposed on the Party under this PPA (including changes in accounting treatment). It will be reasonable for either Party to condition its consent required by this Part 18 (*Assignment, Transfers, and Changes of Control*) on the execution of amendments to this PPA that are reasonably determined by the Party to be necessary to preserve the value and protection afforded to the Party under this PPA. It will be a condition of any assignment, transfer, Change of Control Transaction, or other disposition regarding this PPA or the Facility under Section 18.1 or Section 18.2 that Performance Security required under Section 6.1 (*Performance Security*), if applicable, must remain in place despite such disposition, or that replacement security in form, substance and amount in full compliance with this PPA or otherwise reasonably acceptable to GPC will have been provided prior to such disposition. Any purported assignment, transfer, Change of Control Transaction, or other disposition with respect to this PPA or the Facility that is not in compliance with the applicable provisions of Section 18.1 or Section 18.2, will be null and void, and of no force and effect.

18.5 Request for Consent. Seller must: (i) request GPC's consent to assignment, transfer, or Change of Control under Section 18.1.1 (*Seller Assignment Requirements*) or Section 18.2 (*Restrictions Regarding, Assignment, Transfer, or Change of Control*) by providing written notice under Section 18.1.1(iii) (*Execution and Submission of Notice of Assignment Form*) at least 40 Business Days before the anticipated effective date of the requested assignment, transfer, or Change of Control; and (ii) receive GPC's consent to the requested assignment, transfer, or Change of Control, as evidenced by GPC's execution of the written consent. GPC and Seller will cooperate to finalize the form of written consent between Seller, Seller's assignee, or lender and GPC, as applicable. Subject to Seller's satisfaction of Section 18.1.1 or 18.4 (*General Requirements*), as applicable, and this Section 18.5 (*Request for Consent*), GPC will seek any required Consent from the Commission after GPC is satisfied that: (a) Seller's transaction is final but for such Consent; (b) a plan for any replacement of Eligible Collateral is satisfactory and sufficient; and (c) any required accounting determinations have been made by GPC and are acceptable.

18.6 Transferee Assurances. Before any: (i) assignment; (ii) transfer of the Facility or any interest in the Facility or PPA; or (iii) Change of Control, Seller must obtain for GPC written assurances from the transferee of the limitations of and protections against liability following the proposed transfer at least equivalent to those afforded GPC or GPC's Affiliates under this PPA. Any transfer contrary to this Section 18.6, will make Seller the indemnitor of GPC or GPC's Affiliates against any liabilities incurred by GPC or GPC's Affiliates greater than those that would have been incurred had no transfer taken place. If Seller is not the sole owner of the Facility, Seller represents and warrants that Seller has, and throughout the Term Seller must properly maintain, written assurances from each other owner of the Facility limitations of and protections against GPC's or GPC's Affiliates liability regarding each other owner at least equivalent to those afforded GPC and GPC's Affiliates under this PPA. Any Seller breach of this Section 18.6 will make Seller the indemnitor of GPC and GPC's Affiliates against any liabilities incurred by any of them arising out of the breach.

PART 19 DISPUTE RESOLUTION

19.1 Notice of Dispute; Dispute Resolution Process. Either Party ("**Disputing Party**") has the right to give notice to the other Party ("**Responding Party**") that the Responding Party is not performing in accordance with the terms and conditions of this PPA. The notice ("**Notice of Dispute**") must describe with specificity the basis for the Disputing Party's belief and may propose a resolution of such dispute. Within 15 Business Days after receiving the Notice of Dispute, the Responding Party must provide the Disputing Party with a written response to the Notice of Dispute, which will describe with specificity the basis for the Responding Party's position and which may include additional issues (if any) regarding the dispute raised by the Notice of Dispute and may propose a resolution of the dispute ("**Dispute Response**"). This Section 19.1 will not apply to a Billing Dispute until the completion of the dispute resolution process for Billing Disputes set forth in Section 5.2 (*Billing Disputes and Financial Accounting*). Within five Business Days

after the submission of the Dispute Response, the dispute must be submitted to a Seller designated senior Representative and a GPC designated senior Representative for resolution. If the designated senior Representatives are unable to resolve the dispute to the mutual satisfaction of the Parties within 20 Business Days after the submission to the designated senior Representatives, or any other period as the Parties may agree upon, then: (i) in the case of disputes described in Section 19.2 (*Expert Arbitration*), either Party may provide written notice to the other Party declaring an impasse ("**Impasse Notice**") and, after notice is given, the Parties must arbitrate the disputes under Section 19.2; (ii) in the case of disputes described in Section 19.3 (*JAMS Arbitration*), either Party may provide an Impasse Notice and then the Parties must arbitrate the disputes under Section 19.3; or (iii) in the case of any dispute that is not described in Section 19.2 or Section 19.3, either Party may pursue rights and remedies as may be available under applicable law or in equity subject to the terms and conditions of this PPA.

19.2 Expert Arbitration. Upon the submission of an Impasse Notice, a dispute regarding: (i) the results of a Performance Test (under any provision of this PPA); (ii) Seller Event of Default under Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies*); or (iii) the development of Maintenance Schedules under Section 10.2.1 (*Maintenance Schedule Reporting and Approvals*) will be resolved by arbitration as set forth in this Section 19.2.

19.2.1. Selection of Expert. The Parties will attempt to agree upon the selection of an independent third-party expert to make a determination concerning any dispute described in this Section 19.2 (*Expert Arbitration*). If the Parties cannot mutually agree on the selection of an expert within 15 Days after the submission of the Impasse Notice, GPC will provide Seller with a list of three qualified experts, and Seller will select one expert from the list. As a condition to appointment as a qualified expert, the expert must: (i) be competent and experienced in matters involving the electric energy business in the United States, with at least 10 years of experience in the electric industry; (ii) have no interest, financial or otherwise, in either Party or this PPA beyond payment of the fees and expenses for serving as the expert under this Section 19.2; and (iii) have not performed, or been employed by a firm that has provided services for either Party, and otherwise have not been previously or currently employed or engaged in any capacity by, and not have a personal or professional relationship with, either Party other than as the expert under this Section 19.2, unless the employment, engagement, or relationship has been disclosed in writing to the Parties before the appointment as an expert under this Section 19.2. The expert must not advise or otherwise communicate ex parte in any way with either Party following their appointment as an expert under this Section 19.2. The expert must also treat the details of this PPA and all expert activity under this PPA as private and confidential and must not publish or disclose any information related to the arbitration without the prior written consent of both Parties.

19.2.2. Expert Decision. No later than 15 Days after the selection of the expert, each Party must file with the expert written positions (with supporting documentation) concerning the dispute. The expert may request additional filings and will render a decision within 15 Days after receipt of all filings. In the case of any dispute resolved under this Section 19.2 (*Expert Arbitration*), the decision rendered by the independent expert will be final and binding upon Seller and GPC. Following the resolution of a dispute under this Section 19.2 regarding Performance Guarantees, Monthly Capacity Payment(s) will (if necessary and as soon as practicable) be adjusted retroactively (with interest at the Interest Rate) to reflect tested performance equal to the expert's determination. For avoidance of doubt, this Section 19.2 does not apply to any dispute regarding GPC's application of the Performance Metrics, which will be resolved under Section 19.3 (*JAMS Arbitration*).

19.2.3. Costs. If the independent expert adopts the position of one of the Parties, then the other Party will pay the fees and expenses of the expert. Otherwise, the Parties will share equally the fees and expenses.

19.3 JAMS Arbitration. Upon the submission of an Impasse Notice: (i) a dispute regarding the calculation of a Termination Payment in accordance with Section 16.3.3 (*Determining Gains, Losses, and Costs*); or (ii) a billing dispute under Section 5.2 (*Billing Disputes and Final Accounting*), including a dispute concerning GPC's application of the Performance Metrics and resulting calculation of a Monthly Capacity Payment in accordance with Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC*

Performance Metrics and Requirements) (each a, "**Billing Dispute**"),will be resolved by arbitration as set forth in this Section 19.3.

19.3.1. JAMS. The Billing Dispute will be resolved under the Federal Arbitration Act by binding arbitration following the JAMS Comprehensive Arbitration Rules and Procedures ("**Rules**") of Judicial Arbitration and Mediation Services ("**JAMS**") then in effect, including its evidentiary and procedural rules, except as modified in this PPA. It is the Parties' intent that the arbitration, including the selection and qualification of arbitrators, will be conducted in accordance with the Rules, as amended and supplemented, except where specifically modified by this PPA, and not by the terms of any state arbitration act or other applicable law.

19.3.2. Initiation of Arbitration; Selection of Arbitrators.

(i) Initiation of Arbitration; Selection of Party-Appointed Arbitrators. Within 10 Business Days after delivering an Impasse Notice, the delivering Party must contact JAMS to commence arbitration and must provide written notice to the other Party in accordance with Section 19.4 (*Location of Arbitration*). Arbitration will be deemed to be commenced when JAMS issues a Commencement Letter (as defined in the Rules) in accordance with the Rules. The Party initiating arbitration will nominate one arbitrator at the same time it initiates arbitration. The other Party will nominate one arbitrator within 10 Business Days after receiving the Commencement Letter. The two Party-nominated arbitrators will be deemed neutrals and not the representative of the appointing Party. The two arbitrators ("**Party-Appointed Arbitrators**") will appoint a third arbitrator ("**Third Arbitrator**"). The "**Arbitration Panel**" will include the two Party-Appointed Arbitrators and the Third Arbitrator. All arbitrators must: (a) be competent and experienced in matters involving the electric energy business in the United States, with at least 10 years of legal, engineering, or business experience in the electric industry; (b) have no interest, financial or otherwise, in the Parties or this PPA beyond payment of their fees and expenses for serving on the Arbitration Panel; and (c) have not performed, or been employed by a firm that has provided, services for either Party, and otherwise have not been previously or currently employed or engaged in any capacity by, and not have a personal or professional relationship with, either Party other than as a member of the Arbitration Panel by either Party, or have a personal or professional relationship with Party, unless the employment, engagement, or relationship has been disclosed in writing to all Parties prior to the selection of the Arbitration Panel. Arbitrators must not advise or otherwise communicate ex parte in any way with either Party following appointment to the Arbitration Panel and must treat the details of this PPA and all Arbitration Panel activity as private and confidential, and not publish or disclose any information related to the arbitration without the prior written consent of both Parties. Further, the Third Arbitrator will be independent of the Parties and the Party-Appointed Arbitrators. Each Party will pay the fees and expenses incurred by its Party-Appointed Arbitrator and the fees and expenses of the Third Arbitrator will be divided equally between the Parties.

(ii) Appointment of Third Arbitrator. If the Party-Appointed Arbitrators are unable to agree on the Third Arbitrator within 10 Business Days after the initiation of arbitration, then the Third Arbitrator will be selected by JAMS with due regard given to the selection criteria in Section 19.3.2(i) (*Initiation of Arbitration; Selection of Party-Appointed Arbitrators*) and input from the Parties and the Party-Appointed Arbitrators. Parties will undertake to request JAMS to complete selection of the Third Arbitrator no later than 60 Days after initiation of arbitration. Costs charged by JAMS for this service will be borne by the Parties equally. If JAMS should fail to select the Third Arbitrator within 60 Days after initiation of arbitration, then either Party may petition a court of competent jurisdiction in Atlanta, Fulton County, Georgia to select the Third Arbitrator. Due regard will be given to the selection criteria in Section 19.3.2(i) and input from the Parties and the Party-Appointed Arbitrators. If, before the conclusion of the arbitration, any member of the Arbitration Panel becomes incapacitated or otherwise unable to serve, then a replacement arbitrator will be appointed

in the manner set forth in this Section 19.3.2 (*Initiation of Arbitration; Selection of Arbitrators*).

19.3.3. Discovery; Hearing. Discovery and other pre-hearing procedures will be conducted as agreed by the Parties, including at least one corporate representative deposition, or if they cannot agree, as determined by a majority of the Arbitration Panel so long as all pre-hearing discovery is be completed within 90 Days after selection of the Third Arbitrator. Within 15 Business Days after completion of the pre-hearing discovery, each Party will submit, either individually or jointly, by overnight delivery to the other Party and the Arbitration Panel a separate, precise statement for each issue in dispute, that Party's proposed means of resolving each issue, and the factual or legal support for such proposal ("**Proposed Resolutions**"). No later than 30 Business Days after all pre-hearing discovery has been completed, a hearing will be conducted at which Seller and GPC will each present evidence and witnesses as it may choose. Arbitration will be conducted in accordance with the Rules, as amended and supplemented, except where specifically modified by this PPA.

19.3.4. Confidential Proceeding. Each Party must maintain the confidentiality of the arbitration proceedings, except as reasonably necessary to effectively represent itself in the proceeding to enforce the arbitration award or determination, or as otherwise required by law. All discovery materials will remain confidential in accordance with Section 20.16 (*Confidentiality*).

19.3.5. Arbitration Cost. Each Party will be responsible for its own legal and arbitration expenses incurred in connection with the arbitration proceeding, including attorneys' fees, investigation, or discovery (including e-discovery) costs, and expert, consultant or arbitrator fees and expenses.

19.3.6. Arbitrator Decisions.

(ii) Considerations. The Arbitration Panel will consider the terms and conditions of this PPA, including all relevant evidence and testimony, and will render its decision (by means of a written reasoned decision) within 30 Days after the conclusion of the hearing. However, the Arbitration Panel is expressly and specifically limited to selecting one of the Proposed Resolutions provided by either Seller or GPC for each issue in dispute. The Arbitration Panel will have no authority to award consequential, special, indirect, treble, exemplary, incidental, or punitive damages of any type under any circumstance, regardless of whether such damages may be available under applicable state law, federal law, the Federal Arbitration Act, or any other applicable law.

(iii) Decision of Arbitration Panel. The written decision rendered by a majority of the Arbitration Panel will be provided to the Parties. The decision may be filed in a court of competent jurisdiction and may be enforced by Seller or GPC as a final judgment in such court.

19.4 Location of Arbitration. Any arbitration under Section 19.2 or Section 19.3 will take place in Atlanta, Fulton County, Georgia.

19.5 Mandatory Arbitration. Subject to Section 19.3.6 (*Arbitrator Decisions*), each Party understands and agrees that when arbitration is required under this Part 19, arbitration is mandatory and each party waives any right to seek judicial relief or file court proceedings to determine the specified matters under Section 19.2 (*Expert Arbitration*) or Section 19.3 (*JAMS Arbitration*), other than the right to seek judicial relief to compel arbitration, to confirm an arbitration award, or to seek injunctive relief under Section 19.6 (*Injunctive Relief*) of this PPA.

19.6 Injunctive Relief. Despite any other provision of this Part 19, the Parties acknowledge that an award of damages may not afford complete relief or furnish an adequate legal remedy as between them (such as when Seller's Event of Default arises from Seller's actions designed to achieve an economic gain by selling energy, capacity, or Ancillary Services to a third party in violation of this PPA). Accordingly, the Parties agree that a Party will be permitted to seek at any time, in accordance with applicable laws, procedures, and the terms of this PPA, injunctive relief relating to the performance of this PPA from an arbitrator, a Governmental Authority of appropriate jurisdiction, or a court of competent jurisdiction located in Atlanta, Fulton County, Georgia. The Parties expressly agree that this Section 19.6 does not present a question of substantive arbitrability and waive any right to have an arbitrator decide whether preliminary injunctive relief is available

in court. In the event of entry of any interlocutory injunctive relief, the Party against whom such relief is entered waives the right to have a bond or security posted pending resolution of the dispute giving rise to the issuance of the injunction.

19.7 Continued Performance. The Parties agree to continue performing their respective obligations under this PPA while the dispute is being resolved, unless and until such obligations are terminated or expire in accordance with this PPA.

PART 20 MISCELLANEOUS PROVISIONS

20.1 Amendments. This PPA may be amended only by a written document duly executed by authorized representatives of GPC and Seller, each of GPC and Seller having received all approvals of Governmental Authorities necessary for the effectiveness of the Amendment.

20.2 Binding Effect. This PPA and any extension will inure to the benefit of and will be binding upon the Parties and their respective permitted successors and permitted assigns.

20.3 Counterparts. This PPA may be executed in two or more counterparts and by electronic transmission of signatures in portable document format (PDF) or another electronic format, each of which will be deemed an original but all of which together will constitute one and the same agreement.

20.4 Notice. All notices, requests, consents, claims, demands, waivers, and other communications under this PPA must be in writing. Exhibit Q (*Notices*) lists each Party's point-of-contact for PPA notices and correspondence. Each Party will provide notice to the other as provided in Exhibit Q Notice under this Section 20.4 must include the GPC project identification number referenced in this PPA's title and Facility name and must be by: (i) personal delivery (effective the date of delivery); (ii) if the Party has provided an email address for official notice purposes, email delivery (effective that date if sent by 5:00 p.m. (recipient's time); otherwise, the next Business Day; (iii) repaid nationally- or internationally- recognized commercial overnight courier (receipt requested; effective the next Business Day); or (iv) registered or certified U.S. mail, with proper postage (effective after the fourth Business Day). In all instances, notice to the respective Parties should be directed as specified in Exhibit Q.

20.5 Entire Agreement. This PPA constitutes the entire understanding between the Parties and replaces any previous or contemporaneous oral or written discussion, representation, promise, arrangement, understanding, or agreement between the Parties related to the subject matter of this PPA. The Parties have entered this PPA in reliance upon the representations and mutual undertakings contained in this PPA and not in reliance upon any oral or written representations or information provided by one Party to the other Party not contained or incorporated in this PPA.

20.6 Governing Law. The validity, interpretation, and performance of this PPA will be governed by the laws of the state of Georgia, without giving effect to any conflict of law principles that would require the application of the laws of another jurisdiction. Subject to Part 19 (*Dispute Resolution*) regarding arbitration, each Party agrees that the state and federal courts, as applicable, of the state of Georgia will have exclusive jurisdiction for resolution of disputes under this PPA and each Party irrevocably consents to the jurisdiction of and venue in those courts.

20.7 Liability. Neither Party will be responsible for the other Party's performance, non-performance, or delay in performance under this PPA.

20.8 GPC's Agent. Wherever this PPA requires Seller to provide information, schedules, notice or the like to, or to take direction from, GPC, Seller will provide information, schedules, notice, or the like to, or receive from, GPC or such agent of GPC as GPC may direct from time to time pursuant to a written notice given to Seller in accordance with Section 20.4 (*Notice*).

20.9 No GPC Affiliate Liability. Notwithstanding any other provision of this PPA, no Affiliate of GPC (including any Affiliate of GPC acting as GPC's agent where GPC's agent is given certain authorities) will have any liability whatsoever for any performance, nonperformance, or delay in performance under this PPA, except in the event of an assignment of this PPA to an Affiliate of GPC pursuant to Section 18.1.2 (*GPC Assignment*), in which case, such assignee will be liable for GPCs obligations arising under this PPA from and after the date of assignment.

20.10 Time of Essence; No Waiver. Time is of the essence with respect to performance under this PPA. A Party's failure to enforce a PPA provision, or to require at any time performance by the other Party of any of the provisions under this PPA, does not constitute a waiver of that, or any other PPA provision or any right or remedy in the future. Acquiescence to or acceptance of late performance, with or without reservation does not waive a future right to require timely performance. No modification or waiver of all or any part of this PPA will be valid unless it is reduced to a writing, signed by both Parties, that expressly states that the Parties agree to a waiver or modification, as applicable.

20.11 Headings. The headings contained in this PPA are used solely for convenience and do not constitute a part of this PPA between the Parties, nor should they be used to aid in any manner in the construction of this PPA.

20.12 Third Parties. Except as provided in Section 14.3 (*Indemnity*), nothing in this PPA will be construed to create any duty, obligation or liability of GPC or Seller to any Person not a party to this PPA.

20.13 Agency. This PPA will not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party will have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

20.14 Severability. If any term or provision of this PPA or its application to any Person or circumstance is determined to any extent to be invalid or unenforceable, the remainder of this PPA, or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable, will not be affected by such determination, and each term and provision of this PPA will be valid and enforceable to the fullest extent permitted by law. The Parties agree to negotiate in good faith to modify this PPA to replace or modify such term or provision so as to effect the original intent of the parties as closely as possible.

20.15 Negotiated Agreement. This PPA will be considered for all purposes as prepared through the joint efforts of the Parties and will not be construed against one Party or the other because of the preparation, substitution, or other event of negotiation, drafting or execution of this PPA.

20.16 Confidentiality.

20.16.1. Confidentiality Obligations. Each Party acknowledges that portions of this PPA contain Confidential Information and may require the Parties to disclose additional Confidential Information to one another. Each Party agrees that it will not, without the written consent of the other Party or as otherwise provided in this PPA, disclose a disclosing Party's Confidential Information to any third party, except that receiving Party may disclose Confidential Information: (i) to its Affiliates, consultants, agents, advisors or actual and potential funding sources who: (a) need to know or have a contractual right to the information concerning the receiving Party's performance of its obligations under this PPA; and (b) are subject to an obligation in writing or pursuant to a legally recognized fiduciary of professional duty to maintain confidentiality of Confidential Information; and (ii) to the extent required by applicable law. Seller acknowledges and agrees that all price and payment information provided by GPC to Seller is Confidential Information.

20.16.2. Disclosure of Confidential Information to the Commission. Each Party agrees to request confidential treatment of the Confidential Information in this PPA from the Commission in accordance with the Commission's rule regarding trade secrets, but Seller understands and acknowledges that certain terms, conditions, and provisions of this PPA will need to be disclosed in connection with GPC's regulatory obligations before the Commission, including the application for the Commission Certificate. No assurance or commitment is made regarding GPC's ability to obtain the requested confidential treatment from the Commission. Each Party agrees that if Confidential Information is required to be disclosed in accordance with applicable law, the disclosing Party will make reasonable efforts to obtain protection from disclosure under the trade secret provisions of the Governmental Authority or court to ensure the Confidential Information is protected from public disclosure.

20.16.3. FERC. The Parties agree to seek confidential treatment of the Confidential Information in this PPA from FERC but acknowledge that certain Confidential Information may be made publicly available by FERC.

20.16.4. Public Statements. Any public statement or other announcement by a Party concerning the transaction described in this PPA will be reviewed and agreed upon by the Parties before release, which agreement will not be unreasonably withheld, conditioned, or delayed. Seller and its Affiliates must not issue any public statement (including any news release, internet, website, social media posting, or other publication) concerning: (i) this PPA or the transactions described in this PPA; (ii) the Facility with respect to this PPA; or (iii) Seller's relationship with GPC without the communication first being reviewed and agreed upon by the Parties before release to the public. In addition, Seller is responsible for ensuring that its contractors, Affiliates, and contractual counterparties, and each of their respective employees, contractors, and agents, fully comply with this Section 20.13.4 (*Public Statements or Press Releases*).

20.16.5. Designation of Confidential Information. Confidential Information not designated by this PPA as Confidential Information must be designated in writing as confidential by the disclosing Party to the receiving Party contemporaneously with the supply of the information to the receiving Party. In addition to any information designated as Confidential Information in other sections of this PPA, the Parties designate the following information as Confidential Information: (i) PPA pricing and payment information; (ii) non-public Electric System information; and (iii) GPC technical requirements.

20.16.6. GPC use of Facility Operational Data. Despite any other provision in this PPA, GPC may share Facility operational data (but not pricing information), including actual delivery data, weather station data, and loss and efficiency data with third parties for the purpose of analysis, modeling, model development and validation, and forecasting.

20.16.7. Survival of Confidentiality Obligations. Despite any other PPA provision, the terms of this Section 20.16 (*Confidentiality*) will survive for a period of three years after the termination or expiration of this PPA, except that, to the extent any Confidential Information constitutes a "trade secret" under any applicable law, the receiving Party's obligations under Section 20.16 will apply for the life of such trade secret.

20.17 Contract Interpretation. Each exhibit, attachment, appendix, schedule, regulatory requirement, policy, procedure, standard, or other document attached to or referenced in this PPA (expressly including the *Schedule of Defined Terms*) is incorporated into, and is integral to, this PPA as if included in the main body. In this PPA and in all attached or incorporated documents: (i) whenever the term "**include**," "**including**," or "**e.g.**" is used in connection with a listing of items included within or an example of the prior reference, the listing will be interpreted to be illustrative only, and will not be interpreted as a limitation on or exclusive listing of the items included in the prior reference; and (ii) "**or**" means either or all (i.e., "A or B" means "A or B or both A and B").

Unless otherwise specified, a reference to a given agreement or document, and all the schedules, exhibits, appendices, and attachments to the agreement or document, will be a reference to that agreement or document as modified, amended, supplemented, or restated, and in effect from time to time. Whenever the term "**consent**" or "**approval**" is used, the consent or approval will not be unreasonably withheld, conditioned, or delayed by the consenting or approving Party, unless this PPA provides that the consent or approval is in the sole discretion of the consenting Party. If the Party has provided email contact information, "**written**" or "**in writing**" includes email communication, absent express statement otherwise.

Reference to: (i) a Party or Person includes any allowed successor or assign; (ii) a regulatory authority includes an authority succeeding to the same function; and (iii) an applicable law is to the law as modified or amended and then effective. Reference to a PPA part by caption (e.g., *Facility Operations*) or number (e.g., Part 6 (*Performance Security*)) includes all separate sections (e.g., Section 6.2 (*Replacement Collateral; Substituted Collateral; Release of Collateral*) and subsections (*e.g.*, Section 6.2.1 (*Replacement Collateral*)) within that part and reference to a section by caption or number includes all separate clauses within that section. To the extent there is a conflict between CPT and ET, CPT will prevail.

A defined term may be singular or plural, as the context requires, and, absent an express statement otherwise, each defined term has the same meaning in all PPA documents. Captions are for convenience only and do not affect PPA interpretation.

20.18 Replacement Index. Should any index or tariff referenced in this PPA be discontinued, no longer published, or deemed unrepresentative, the Parties will cooperate in establishing substitute benchmarks through reference to equivalent indices or tariffs.

20.19 Recording. Each Party acknowledges and consents to the tape or electronic recording of all telephone conversations between the Parties, and that any recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this PPA. Each Party waives any further notice of such monitoring or recording and agrees to notify its officers and employees of any monitoring or recording and to obtain any necessary consent of such officers and employees.

20.20 Further Assurances. Each Party agrees to provide reasonable cooperation to the other Party as necessary to give effect to the terms of this PPA.

20.21 Transfer of Information Acknowledgement. Seller agrees to execute contemporaneous with the execution of this PPA, the Transfer of Information Acknowledgement attached as Exhibit P (*Transfer of Information Acknowledgement*), and GPC agrees to the limited use and confidential treatment of the information a set forth in Exhibit P.

Each Party agrees to all terms and conditions of this PPA as of the Effective Date (the date on which GPC signs, as shown below). The Parties may exchange counterparts of this PPA as a scanned image (e.g., .pdf or .tiff file extension) as an attachment to email. An electronic or scanned signature is an original signature for all purposes.

Georgia Power Company	**#SellerLegalName#**
By: _____	By: _____
#Name	#SellerSignatureName
#Title	#SellerSignatureTitle
Date: _____	Date: _____

EXHIBIT A – FACILITY DESCRIPTION AND ADDITIONAL DETAILS

Table A-1 **Facility and Site Information**	
Site	#Street Address# #City, #State, #ZipCode
GPS Coordinates	#Latitude, #Longitude
Seller Information	#SellerName, a #Seller Entity Type#, organized under the laws of the state of #State#
IC Number	IC-#InterconnectionID#
Facility Description	The #Number MW ESS at the #FacilityName, interconnected to the STT at the POI.
POI	#DescribeLocation (further described in the IA)

Table A-2 **Term, RCOD, and Delivery Commencement Date**	
Term	#NumberBetweenFiveAndThirty Annual Periods
RCOD:	#Month #Day, #Year
Delivery Commencement Date:	#DateNineMonthsBeforeRCOD

[NOTE TO BIDDERS: Term of 5, 10, 15,20, 25, or 30 Annual Periods based on Delivery Commencement Date.]

Table A-3 **Additional Facility and Operating Information**	
A	#____# (%) Round-Trip Efficiency (RTE)*****
B	#____# (Hours) Storage Device Design Duration (SDDD) (minimum 4 Hours)*
C	#____# (MWh) Storage Device Operating Energy (SDOE) – per Cycle*
D	#____# (MW) Maximum Rate of Charge (ROC)*****

E	#____# (MW) Storage Device Design Capacity (SDDC) (continuous discharge)*
F	#____# (MW) Contracted Capacity (Equal to (E) above & remains unchanged for the Term)
G	#____# (#) Daily Cycle Limits
H	#____# (#) Cycle Limit (per Annual Period – minimum 365)
I	#____# (MW) Interconnection Limit

***** NOTE: Starred items will be Seller Performance Guarantees used by GPC in evaluating ESS performance.

The Facility includes the following: [Description to be provided by Seller and conformed to the Bid]

(For example, storage facility technology type, number and arrangement of cells and inverters, round-trip efficiency, etc.)

EXHIBIT A-1 – KEY MILESTONES AND REQUIRED KEY MILESTONE DATES

[Note to Bidders: This Key Milestones and Required Key Milestone Dates Exhibit revised to reflect Key Milestones applicable to the Facility and project prior to PPA execution.]

Key Milestone	Key Milestone Date	Required Substantiation[1]
Interconnection Interconnection request Study agreements and studies completed, including feasibility study, system impact study and facilities study. IA execution		Copies of: • Interconnection request • Executed study agreements • Interconnection study results • Executed copy of IA reflecting a commercial operation date no later than the RCOD
Achieve site control		
EPC Contract execution		A copy of the executed EPC Contract reflecting a substantial completion date that supports the RCOD
Full execution of all major equipment procurement agreements, including those between Seller and applicable suppliers and vendors for: • GSU • Switchyard equipment • Generator • ESS components and issuance of any applicable full notice to proceed.		A copy of each executed major equipment procurement agreement, with pricing redacted, including: (i) a description of the country of origin for all equipment and components to be supplied under the agreement; (ii) any applicable full notice to proceed; and (iii) schedules with required delivery dates consistent with the RCOD.
EPC Contract Schedule Complete		A copy of the EPC Contract schedule, which must be at least a

[1] Without limiting any other PPA requirement, as a condition to achieving each Key Milestone on or before the Key Milestone Date, Seller must provide evidence satisfactory to GPC demonstrating that each Key Milestone was achieved by the Key Milestone Date, including the items described in this table.

		level 3 critical path method schedule that supports the RCOD.
All Permits required for Facility construction and Commercial Operation. • Applications submitted • All Permits obtained		A matrix of required Permits, copies of applications submitted, and a copy of Permits obtained.
Financial Closing		A letter from an officer of Seller certifying that the following occurred: (i) Seller obtained and has closed on all financing arrangements necessary to obtain funds for the anticipated cost of completing construction of the Facility; (ii) all conditions precedent to the availability of funds pursuant to such financing arrangements have been satisfied or waived by the applicable parties (other than customary conditions to each drawdown of a construction loan), and such funds (subject to customary conditions to each drawdown of a construction loan) will be made available for disbursement to Seller; and (iii) an officer of Seller has provided GPC with an executed certification that the foregoing (i) and (ii) have occurred.
Interconnection Notice to Proceed	The date by which the IA notice to proceed must be issued for commercial operation (as defined in the IA) to be achieved in time to support RCOD.	An executed copy of the Interconnection Notice to Proceed
EPC Notice to Proceed		A copy of the EPC Notice to Proceed.
Delivery of Major Equipment to the Facility site by dates required to		

support COD by Required COD under the PPA.		
Achievement of EPC Contract key milestones: • Site mobilization • Mechanical Completion • Substantial Completion • Initial synchronization		
RCOD		

EXHIBIT A-2 – PERFORMANCE SECURITY AND LIQUIDATED DAMAGES

PART 1. PERFORMANCE SECURITY

Time Period			Eligible Collateral ($/kW)[1]
Post Execution Period > Two Years Before anticipated Delivery Commencement Date			
Post Execution Period < Two Years Before anticipated Delivery Commencement Date			
Delivery Commencement Date through PPA Term	Annual Period	1-5	
		6-10	
		11-15	
		16-20	
		21 – 25	
		26 – 30	

PART 2. LIQUIDATED DAMAGES

[Note to Bidder: The Liquidated Damages table will be populated with the applicable delay liquidated damages stated in Attachment 2 (*Delay Liquidated Damages Summary*) of RFP Exhibit E (*Summary of Fees, Costs, Security, and Deadlines*)]

Liquidated Damages	
Month	**Amount ($/kW-month)[2]**

[1] All amounts shown as $/kW will be calculated based on the Facility's Contracted Capacity.

EXHIBIT B – CAPACITY; CAPACITY PAYMENTS AND PAYMENT REDUCTIONS; BUYDOWN

PART 1. TESTING REQUIREMENTS

1.1. Contracted Capacity Cap. Throughout the Term, SDDC will be capped at the Contracted Capacity.

1.2. Tested Storage Capacity; Performance Testing.

1.2.1. Pre-COD Performance Testing. Pre-COD Performance Testing will be conducted in accordance with Section 1.2.2 (*Performance Testing*) and Exhibit E (*Performance Testing Procedures*) to establish the tested performance of the ESS for the Performance Guarantees stated as A – E in Table A-3 of Exhibit A (*Facility Description and Additional Details*). For Commercial Operation to be accepted by GPC, the tested performance of the ESS must equal or exceed the corresponding Performance Guarantee, except to the extent of a buydown payment made by Seller in accordance with Section 1.3 (T*ested Storage Capacity Below SDDC; SDDC Buydown*) for SDDC. In addition to Performance Testing, Seller must successfully complete any testing required by the IA and any required ESS AGC dispatch testing.

A. Except as described in Section 1.3 (*Tested Storage Capacity Below SDDC; SDDC Buydown*), no Performance Test result will change any Performance Guarantee. All Performance Metrics will compare actual performance to the Performance Guarantees. Seller will not receive any additional compensation for tested or actual ESS performance that exceeds any of the Performance Guarantees.

B. As stated in Section 1.2.1 (*Pre-COD Performance Testing*), GPC acceptance of Commercial Operation is contingent on Seller meeting or exceeding all Performance Guarantees. Subject to Seller's one-time option to buydown SDDC under Section 1.3.4.A, if Performance Testing demonstrates that Seller failed to meet or exceed any Performance Guarantee, Seller must cure the performance deficiency to meet or exceed the Performance Guarantee.

1.2.2. Performance Testing. Seller must conduct Performance Testing in accordance with Exhibit E (*Performance Testing Procedures*) to demonstrate that SDDC and all other Performance Guarantees are met. To demonstrate the ESS capability, Performance Tests will measure the maximum output of the ESS at the POI over the SDDD as well as the moment-to-moment variability of energy discharged from the ESS. The moment-to-moment variability of energy discharged from the ESS as determined in the Performance Test will determine if the tested performance of the ESS meets or exceeds the Performance Guarantees specified in Exhibit A. Performance Testing must demonstrate that the Facility can operate autonomously, without human intervention, during the charging and discharging Cycles and that the thermal management system performs as required. Prior to COD, Seller must not begin Performance Testing until Seller confirms the Facility is ready for Performance Testing, including confirmation that all commissioning is complete, all equipment is operational, and all activities to confirm ESS health and balancing are complete. No more than twice each Annual Period, if GPC requests that Seller conduct additional Performance Testing, Seller must conduct additional Performance Testing to confirm the ESS meets the Performance Guarantees. If Performance Testing shows performance deficiencies, no such limit applies to the frequency with which GPC may request retesting. No later than 10 Days after receipt of a GPC request for Performance Testing, Seller must notify GPC of when the Performance Test will be conducted. Seller must conduct Performance Testing no later than 30 Days after receipt of GPC's request.

1.2.3. GPC Election; No Waiver. GPC in its sole discretion may elect to waive any Performance Test requirement. Any GPC election to waive any Performance Testing requirement will not waive any Performance Testing requirement for future Performance Tests or otherwise relieve Seller from any Performance Guarantee obligation.

1.2.4. Test Charge/Discharge Energy Price Prior to Commercial Operation Date. For all Charging Energy prior to COD, GPC will sell and Seller will receive and purchase Charging Energy at the Test Charge Energy Price. For all energy delivered to the POI from the ESS prior to COD, but not after the RCOD, GPC will receive and purchase such energy from Seller at the Test Discharge Energy Price. After the RCOD, GPC will not pay Seller for any test energy delivered to the POI.

1.3. Tested Storage Capacity Below SDDC; SDDC Buydown. This Section 1.3 applies to Tested Storage Capacity only and not to any other Performance Guarantee. During the Performance Test, Tested Storage Capacity must prove continuous and steady output from the ESS at the SDDC over the entire SDDD. In the event the Performance Test fails to demonstrate the Tested Storage Capacity is equal to or greater than the SDDC over the entire SDDD Seller must remedy the failure per the provisions in this section.

1.3.1. Cure Plan and Cure Period. In addition to and without limiting the remedies available to GPC under PPA Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies*), if a Performance Test indicates that the Tested Storage Capacity, including continuous output over the SDDD, is less than SDDC but greater than or equal to 70% of Contracted Capacity, Seller must, by no later than 10 Days after the Performance Test date, submit to GPC a written cure plan for increasing the Tested Storage Capacity to the Contracted Capacity. Seller's cure plan must be acceptable to GPC and include a reasonable Cure Period during which Seller will conduct additional Performance Tests. Except as permitted under Section 1.3.1.A (*Cure Period Extension*), the Cure Period must not exceed 120 Days.

A. Cure Period Extension. If Seller establishes a cure plan under this Section 1.3.1 (*Cure Plan and Cure Period*) but requires a Cure Period of more than 120 Days to cure the inadequate Tested Storage Capacity from the most recent Performance Test, then GPC may agree to extend the Cure Period for a reasonable additional period of time, but the extension will not exceed 180 Days. As a condition to GPC granting the Cure Period extension, by no later than 15 Days before the expiration of the initial Cure Period, Seller must provide to GPC:

(i). A revised cure plan, acceptable to GPC, setting forth a reasonable extension of the Cure Period, not to exceed 180 Days; and

(ii). A written certification, acceptable to GPC, confirming that for Seller to cure the inadequate Tested Storage Capacity Seller must be afforded the requested additional amount of time.

1.3.2. Cured Inadequate Tested Storage Capacity. The inadequate Tested Storage Capacity will be deemed cured under this Section 1.3 (*Tested Storage Capacity Below* SDDC*; Capacity Buydown*) only if: (i) Seller provides GPC with a written certification, reasonably acceptable to GPC, confirming that the inadequate Tested Storage Capacity has been cured; and (ii) the Tested Storage Capacity, as demonstrated by the most recent Performance Test, is increased to a value equal to or greater than the Contracted Capacity.

1.3.3. SDDC during a Cure Period. During any Cure Period or Cure Period extension, the SDDC will be deemed to be the Tested Storage Capacity determined in accordance with the most recent Performance Test, but the SDDD will not be reduced. The ROC and SDOE will adjust proportionately to the reduction of SDDC.

1.3.4. Failure to Cure Inadequate Tested Storage Capacity Above 70% Contracted Capacity; Buydown Liquidated Damages. If Seller fails to: (i) establish the cure plan within the required 10-Day period set forth in Section 1.3.1 (*Cure Plan and Cure Period*) or, if applicable, establish the revised cure plan within the required 15-Day period set forth in Section 1.3.1.A (*Cure Period Extension*) for a Cure Period extension; or (ii) diligently implement the cure plan (including implementation of actions as GPC may reasonably request); or (iii) cure the inadequate Tested Storage Capacity within the applicable Cure Period, the SDDC will be deemed to be the Tested Storage Capacity demonstrated in the most recent Performance Test.

A. Buydown Liquidated Damages. Seller will have a one-time option to adjust SDDC by paying GPC, as liquidated damages, the buydown payment shown in Table B-1 (*Buydown Payment for Capacity Reduction Below SDDC*) corresponding to the Annual Period following the Annual Period in which the most recent Performance Test was conducted, based on the difference (in kW) between the Contracted Capacity and the Tested Storage Capacity from the most recent Performance Test. Upon Seller making the buydown payment required under this Section 1.3.4.A (*Buydown Liquidated Damages*), the SDDC will be deemed to be the Tested Storage Capacity demonstrated in the most recent Performance Test. However, any reduction of the SDDC will not limit or modify GPC's rights and remedies under PPA Section 16.1.9 (*Tested Storage Capacity Below 70% Contracted Capacity; Cure; Remedies*). Subject to PPA Section 16.1.9 the payment of buydown liquidated damages under this Section 1.3.4.A will be GPC's exclusive remedy for the reduction of the SDDC to the Tested Storage Capacity from the most recent Performance Test. Seller will only be allowed to reduce SDDC once during the Term. Seller's buydown of SDDC will not lower Contracted Capacity.

[Note to Bidders: Table B-1 will be populated using the applicable amounts stated in RFP Exhibit E – Attachment 1.]

Table B-1

Buydown Payment for Capacity Reduction below Contracted Capacity

Annual Period	Buydown Payment ($/kW)
1-5	#Amount
#6-10	#Amount
#11-15	#Amount
#16-20	#Amount
#21 – 25	#Amount
#26 – 30	#Amount

If SDDC is reduced as set forth in this Section 1.3. (*Tested Storage Capacity Below SDDC; SDDC Buydown*), and, after the SDDC reduction, Seller restores the ESS capacity to a value equal to or greater than the Contracted Capacity, then: (i) GPC will not be required to refund to Seller any buydown liquidated damages Seller paid under Section 1.3.4.A; and (ii) Seller may offer the restored capacity, up to the Contacted Capacity, to GPC at the Annual Capacity Price and in

accordance with the payment terms set forth in Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*). If GPC accepts Seller's offer, the SDDC will be increased by an amount equal to the portion of the restored capacity accepted by GPC, not to exceed the Contracted Capacity. Any adjustment to SDDC will be documented in the Operating Procedures.

EXHIBIT C – MONTHLY CAPACITY PAYMENTS; MONTHLY CAPACITY REDUCTIONS; AGC PERFORMANCE METRICS AND REQUIREMENTS

PART 1. PRICING

1.1. Capacity Pricing. Commencing on the Delivery Commencement Date, the "**Annual Capacity Price**" for the first Annual Period will be $#Price/kW-year and will increase per Table C-1 below on December 1 of each Annual Period thereafter, as follows:

Table C-1
Annual Capacity Price

Annual Period	($/kW-year)

The Annual Capacity Price will include all costs, including operation and maintenance charges for the Facility.

1.2. Monthly Capacity Payment.

1.2.1. Monthly Capacity Payment. For each Month of each Annual Period, GPC will pay to the Seller the "**Monthly Capacity Payment (MCP)**" calculated as follows:

MCP = MCF – MCR

Where:

MCF = Monthly Capacity Fee, determined as follows:

MCF = SDDC * (ACP * 1000) * MVF

Where:

SDDC = Storage Device Design Capacity, as may be adjusted pursuant to Exhibit B Section 1.3. (*Tested Storage Capacity Below SDDC; SDDC Buydown*).

ACP =The applicable Annual Capacity Price (in $/kW-year) set forth in Table C-1.

MVF =The applicable Monthly Value Factor from Table C-2 (*Monthly Value Factor (MVF)*).

MCR = The Monthly Capacity Reduction for the Month determined in accordance with Section 2.1 (*Monthly Capacity Reduction*).

1.2.2. Pro Rata MCP Calculation. If the Delivery Commencement Date occurs on a Day other than the first Day of a Month, or if the last Day of the Term occurs on a Day other than the last Day of a Month, GPC will calculate the MCP on a pro rata basis.

1.2.3. MVF; GPC Right to Modify. The Monthly Value Factor for each Month is stated in Table C-2 (Monthly Value Factor (*MVF*). Despite the Monthly Value Factors in Table C-2 (*Monthly Value Factor (MVF)*), for any given Annual Period, GPC will be entitled, in GPC's sole discretion, to modify the Monthly Value Factor for any Month by providing notice to Seller, so long as: (i) GPC provides Seller notice at least 180 Days before the start of the Annual Period; (ii) each Monthly Value Factor is at least equal to 0.01; and (iii) the sum of all Monthly Value Factors for each Annual Period equals 1.0.

Table C-2
Monthly Value Factor (MVF)

Month	MVF
December	0.10
January	0.45
February	0.05
March	0.03
April	0.03
May	0.03
June	0.04
July	0.09
August	0.09
September	0.03
October	0.03
November	0.03

1.3. No GPC Payment Obligation Before RCOD. GPC will not owe Seller: (i) any payment or other compensation for the capacity of the Facility for any Month before the Delivery Commencement Date even if Seller achieves Commercial Operation of the Facility before the RCOD.

PART 2. MONTHLY CAPACITY REDUCTIONS; ESS PERFORMANCE METRICS.

2.1. Monthly Capacity Reduction. At the end of each Month, GPC will determine the Monthly Capacity Reduction as follows:

MCR = the sum of: (i) SPR; and (ii) RTE Performance Reduction

Where:

SPR = the Storage Performance Reduction for such Month as determined in Section 2.2; and

RTE Performance Reduction = RTE Performance Reduction for such Month as determined in Section 2.4

2.2. Storage Performance Reduction. For purposes of this Section 2.2, GPC will determine the Storage Performance Reduction ("**SPR**") for each Month in accordance with Table C-3 below, based on the Storage Performance Metric Achieved for such Month.

Table C-3
Storage Performance Reduction

Storage Performance Metric Achieved	Storage Performance Reduction
Storage Performance Metric Achieved ≥ 0.96	No reduction
0.96 > Storage Performance Metric Achieved ≥ 0.75	(1.0 - Storage Performance Metric Achieved) * 4 * MCF($)
0.75 > Storage Performance Metric Achieved	1.0 * MCF($)

2.3. Storage Performance Metric Achieved. For purposes of determining the Storage Performance Reduction in Table C-3 above, GPC will determine the Storage Performance Metric Achieved for the Month by calculating the average of two components: (i) Energy Storage Performance Metric; and (ii) Charge/Discharge Rate Performance Metric. The two components will be calculated as follows:

2.3.1. Energy Storage Performance Metric. GPC will calculate the Energy Storage Performance Metric for each Month as follows:

$$\textbf{Energy Storage Performance Metric} = \left[\frac{\sum_{i=1}^{n} \text{Daily Minimum Storage Capability}_{i}}{\sum_{i=1}^{n} \text{SDOE}_{i}}\right]$$

Where:

n = total number of Days in the Month, excluding any Scheduled Outage or Maintenance Outage Day;

i = each Day in the Month, excluding any Scheduled Outage or Maintenance Outage Day;

Daily Minimum Storage Capability (MWh) = The Daily Minimum Storage Capability (which is capped at SDOE) Available given any limitation conveyed by Seller or as determined by GPC from Seller's non-compliance with GPC's AGC Setpoint signals; and

SDOE = Storage Device Operating Energy, as defined in the Definitions.

The Energy Storage Performance Metric will not exceed 1.0. Seller must provide GPC real-time access to telemetry data, as described in Exhibit G (*AGC and Facility Minimum Data Requirements*), from Seller's control system to facilitate GPC's calculation of these metrics. The Daily Minimum Storage Capability time tolerances will be detailed in the Operating Procedures. If applicable, the Operating Procedures will detail how the Energy Storage Performance Metric will be calculated for partial ESS Availability during Scheduled Outages and Maintenance Outages.

2.3.2. Charge/Discharge Rate Performance Metric. The Charge/Discharge Rate Performance Metric will be calculated for each Month as follows: (Note: all negative values will be converted to absolute values for calculation of this metric):

$$\textbf{Charge/Discharge Rate Performance Metric} = \left[\frac{\sum_{i=1}^{n} \text{Daily Minimum Charge/Discharge Rate Limit}_i}{\sum_{i=1}^{n} \text{Maximum Rate of Charge or Discharge}_i}\right]$$

Where:

n = total number of Days in the Month, excluding any Scheduled Outage or Maintenance Outage Day;

i = each Day in the Month, excluding any Schedule Outage or Maintenance Outage Day;

Daily Minimum Charge/Discharge Rate Limit (MW) = the lower of: (i) the smallest rate at which the ESS can be charged (MW) on the applicable Day ("**Daily Minimum Charge Rate Limit**"); or (ii) the smallest rate at which the ESS can be discharged (MW) on the applicable Day ("**Daily Minimum Discharge Rate Limit**"). For both numbers, any rate reduction or limit will either be reported by Seller or determined by GPC from Seller's non-compliance with AGC Setpoint signal determination criteria (as detailed in the Operating Procedures). The Daily Minimum Charge/Discharge Rate Limit will be capped at the amount of the denominator in the above calculation for each applicable Day; and

Maximum Rate of Charge or Discharge (MW) = The guaranteed daily instantaneous rate at which the ESS can be charged or discharged, for the applicable Day. For this calculation, GPC will use either: (i) the Maximum Rate of Charge if the numerator is the Daily Minimum Charge Rate Limit above for the applicable Day; or (ii) the maximum rate of discharge if the numerator is the Daily Minimum Discharge Rate Limit above for the applicable Day. For this calculation, the maximum rate of discharge will be SDDC.

The Charge/Discharge Rate Performance Metric for a Month will not exceed 1.0. Seller must provide GPC real-time access to telemetry data, as described in Exhibit G (*AGC and Facility Minimum Data Requirements*), from Seller's control system to facilitate GPC's determination of these metrics. If applicable, the Operating Procedures will detail how the Charge/Discharge Rate Performance Metric will be calculated for partial ESS Availability during Scheduled Outages and Maintenance Outages. In all cases, GPC retains sole discretion to determine and apply final rules and methodologies to make Daily Minimum

Storage Capability determinations and Daily Minimum Charge/Discharge Rate Limit determinations.

2.4. Round-Trip Efficiency Reduction. GPC will determine the RTE Performance Reduction for each Month in accordance with Table C-4 below, based on the Monthly RTE for such Month.

Table C-4 **RTE Performance Reduction**	
Monthly RTE	**RTE Performance Reduction**
Monthly RTE ≥ (Guaranteed RTE – 0.01)	No reduction
(Guaranteed RTE – 0.01) > Monthly RTE	Reduction per RTE Performance Reduction formula below

RTE Performance Reduction =

$$\sum_{i=1}^{n} [(\text{Guaranteed RTE} - \text{Monthly RTE}) * (\text{Charging Energy}_i) * \text{AIER}_i]$$

Where:

n = total number of Hours in the Month, excluding any Hour of Scheduled Outage or Maintenance Outage;

i = each Hour in the Month, excluding any Hour of Scheduled Outage or Maintenance Outage;

Charging Energy = as defined in the Definitions; measured at, or adjusted to, the POI;

AIER = Associated Interchange Energy Rate, as defined in the Definitions.

Guaranteed RTE = as defined in the Definitions.

For purposes of determining the RTE Performance Reduction, GPC will calculate the Monthly RTE as follows:

$$\text{Monthly RTE} = \frac{Total\ Discharging\ Energy\ for\ the\ Month}{Total\ Charging\ Energy\ for\ the\ Month}$$

NOTE: Both the numerator (MWh) and denominator (MWh) for the Monthly RTE calculation may be determined by pro-ration or other methods deemed appropriate by GPC. GPC will also make appropriate adjustments for stored energy at the beginning and end of each Month. For the Monthly RTE calculation: (i) if there is no Charging Energy during the Month, total Discharging Energy will be the denominator; and (ii) if there is no Discharging Energy for the Month, total Charging Energy will be the numerator. GPC will exclude from its Monthly RTE calculations any Month where there

is no Charging Energy and no Discharging Energy.

Seller must provide GPC real-time access to telemetry data, as described in Exhibit F (*AGC and Facility Minimum Data Requirements*), from Seller's control system to facilitate GPC's calculation of these metrics.

2.5. Unavailability Periods. GPC retains sole discretion to determine if any Unavailability Period impacted any Performance Metric in any Day.

PART 3. AGC PERFORMANCE METRICS AND REQUIREMENTS

3.1. Monthly AGC Status and Setpoint Requirements. Seller is responsible for achieving the AGC Status Performance Requirement and the AGC Setpoint Response Performance Requirement for each Month.

3.1.1. If Seller fails to achieve the AGC Status Performance Requirement for: (i) any three consecutive Month period; or (ii) six Months in any 12 Month period, then Seller's failure to satisfy the AGC Status Performance Requirement will be an Event of Default.

3.1.2. If Seller fails to achieve the AGC Setpoint Response Performance Requirement for: (i) any three consecutive Month period; or (ii) six Months in any 12 Month period, then Seller's failure to satisfy the AGC Setpoint Response Performance Requirement will be an Event of Default.

3.2. Calculating AGC Status and Setpoint Requirements. At the end of each Month, GPC will determine for the ESS: (i) the AGC Status Performance Requirement by calculating the AGC Status Performance Metric; and (ii) the AGC Setpoint Response Performance Requirement by calculating the AGC Setpoint Response Performance Metric.

3.2.1. AGC Status Performance Requirement. The AGC Status Performance Requirement for each Month is that the AGC Status Performance Metric for the Month must equal 0.90 or greater. GPC will calculate the AGC Status Performance Metric for each Month as follows:

$$\textbf{AGC Status Performance Metric} = \left[\sum_{i=1}^{n}\left(\frac{\text{AGC Status}_i}{n}\right)\right]$$

Where:

n = total 6-second AGC periods in the Month.

i = 6-second data point; and,

"AGC Status" = "1" if the ESS is in AGC mode and capable of responding to GPC's AGC Setpoint signal, or "0" if the ESS is not in AGC mode and is not capable of responding to GPC's AGC Setpoint signal.

3.2.2. AGC Setpoint Response Performance Requirement. The "**AGC Setpoint Response Performance Requirement**" for each Month is that the Root Mean Squared Error

("**RMSE**") for the Month must be less than or equal to 5. The RMSE for each Month will be calculated as follows:

$$\text{RMSE} = \sqrt{\frac{\sum_{i=1}^{n}(\text{AGC Setpoint}_i - (\text{ESS Input/Output})_i)^2}{n}}$$

Where:

n = Total 6-second AGC periods in the Month for which there is a non-zero AGC Setpoint signal;

i = 6-second data point; and,

AGC Setpoint = AGC Setpoint value (MW) for the 6-second AGC period;
ESS Input/Output = The energy (MW) either delivered from the ESS or to the ESS for the 6-second AGC period;
Any 6-second period during which the AGC Setpoint signal = 0 will be excluded from the calculation of ESS RMSE.

EXHIBIT D – RESERVED

EXHIBIT E – PERFORMANCE TESTING PROCEDURES

PART 1. PERFORMANCE TESTING SUMMARY

1.1. Performance Testing Duration. Performance Testing will consist of three full Cycles carried out over three Days. The three Cycles must be completed within five Days after Performance Testing begins. Results of the test must be calculated for each Cycle and then averaged over the three Cycles. Each parameter must meet or exceed the guarantee. The ESS must be able to maintain constant power at the POI for the duration of the charge and discharge. A charge Cycle starts when the output at the POI is equal to or greater than 98% of the ROC. The ESS must maintain constant power at the POI for the duration of the charge Cycle.

1.2. Charge/Discharge Cycles. The output must not deviate more than 2% from ROC. The charge Cycle ends when the ESS reaches 100% of SDOE or output at the POI drops below 98% of ROC for two minutes. None of the energy below 98% of ROC will be included in the Performance Testing calculations. The ESS will rest for 30 minutes between the end of the charge Cycle and start of the discharge Cycle. The discharge Cycle will start when output at the POI is at least 98% of the SDDC. The output at the POI should not deviate more than 2% from the SDDC during the discharge cycle. The discharge Cycle ends when the ESS reaches zero % of SDOE or the output at the POI drops below 98% of SDDC for two minutes. None of the energy below 98% of the SDDC will be included in the Performance Testing calculations. The ESS may rest and then be charged to a suitable SOC to rest overnight for the next Cycle the following Day. All relevant data points must be recorded in one-minute increments and the raw data must be made available three Days after conclusion of Performance Testing. A report including all Performance Testing calculations and a summary of results must be submitted to GPC five Days after conclusion of Performance Testing.

[Remainder of procedures to Be Agreed Upon by the Parties]

EXHIBIT F – FACILITY OPERATING AND DISPATCHING REQUIREMENTS

PART 1. SELLER REQUIREMENTS:

1.1. Seller is responsible for:

i. Discharging and charging of the ESS in accordance with the real-time directions provided by GPC through AGC Setpoint signals;

ii. All other aspects of operation and maintenance of the Facility in accordance with Prudent Industry Practices and applicable law;

iii. Complying with requirements contained in the IA, including operation and performance validation requirements;

iv. Adhering to all operational data, interconnection, and telemetry requirements applicable to the Facility; and

v. Promptly and accurately communicating to GPC any and all ESS outage, derate, or other operational limitation via GPC's specified data systems including the REM application or other data systems as GPC chooses, and also via Gencomm messages, E-mails, and phone calls as requested and specified in the Operating Procedures.

PART 2. DISPATCH.

2.2. During the Term, the Parties agree to the following parameters for the dispatch of the ESS:

i. Seller must not charge or discharge the ESS except as specifically directed by GPC or with specific prior authorization by GPC.

ii. GPC will control the disposition of all energy going into and out of the ESS using its 6-second AGC Setpoint signals.

iii. GPC will be able to request that the ESS be dispatched up to the Cycle Limit. GPC will track Cycles and ensure it remains in compliance with these requirements.

iv. The ESS must be capable of receiving and responding to AGC Setpoint signals from GPC and allow GPC to monitor, measure, and record the State of Charge, charge rate, and discharge rate at all times in accordance with the AGC requirements defined herein.

v. In the event of an AGC disruption, GPC will communicate desired ESS operations to Seller and Seller must comply with GPC's requests manually to the best of Sellers ability.

vi. In no event will energy delivered from the ESS exceed the lesser of the SDDC or the Interconnection Limit.

vii. Seller must ensure that the ESS satisfies all operational and performance requirements under the IA, including when the ESS is discharging (during cycling or otherwise).

PART 3. CHARGING OF THE ESS.

3.1. During the Term, the Parties agree to the following parameters for charging the ESS:

ii. GPC will have full control of the disposition of all energy directed into the ESS at no additional cost and the right to charge the ESS that may result in Charging Energy.

iv. GPC will request the ESS use Charging Energy at any time and in any amount that GPC specifies up to the Maximum Rate of Charge or until the State of Charge equals SDOE or the Maximum Operational State of Charge Limit.

3.2. Communications. Real time communications between the Seller and GPC are required with respect to the ESS and the Renewable Resource. Seller must have the capability to and continuously communicate the status of the ESS to GPC in real time.

EXHIBIT G – AGC AND FACILITY MINIMUM DATA REQUIREMENTS

Seller is responsible for operating the ESS and receiving and delivering energy in compliance with GPC's AGC Setpoint signals. Seller must telemeter at all times during the operation of the ESS, and GPC's AGC Setpoint signal will include the maximum Rate of Change as a limiting factor for changes in energy output. For purposes of this Exhibit G, the "**Rate of Change**" is the real-time maximum ramp rate when increasing or decreasing output (accounting for any equipment or operational issues that may affect such ramp rate).

The Facility's AGC system must be configured to interface with GPC's AGC RTU to send and receive the following data for AGC:

PART 1. ESS (STANDALONE) DATA POINTS

1.1. From GPC to Facility

1.1.1. ESS Setpoint (MW)

1.2. From Facility to GPC

1.2.1. All High-Side (Transmission Level 46kV & above) device analog measurements (at POI)

- **A.** ESS net output AC MW (positive for discharging, negative for charging)
- **B.** ESS net output AC MVAR
- **C.** Three-phase voltage (kV)
- **D.** Three-phase current (A)

1.2.2. All High-Side (Transmission Level 46kV & above) device status (Breakers, Switches, disconnects states (Open, Close, etc.)

1.2.3. All Low-Side (34.5 kV) collector system analog measurements

- **A.** Individual Feeder Aggregated ESS output AC MW
- **B.** Individual Feeder Aggregated ESS output AC MVAR
- **C.** Three-phase voltage (kV)
- **D.** Three-phase current (A)
- **E.** Reactive device output MVAR (if applicable)

1.2.4. All Low-Side (34.5 kV) collector system device status (ON/OFF)

- **A.** Individual BESS Feeder Breaker status
- **B.** Reactive device breaker status (LTC, shunts, dynamic reactive devices, etc.)
- **C.** Reactive device circuit switcher status (if applicable)

1.2.5. Gross ESS DC MW (positive for discharging, negative for charging)

1.2.6. Plant Voltage Regulation Mode Status (Auto/Manual)

1.2.7. Reactive Support (MVARs) at Zero power Status (ON/OFF)

1.2.8. ESS AGC Status (True/False)

1.2.9. Present State of Charge (MWh)

1.2.10. ESS Maximum Operational State of Charge limit (MWh)

1.2.11. Minimum Operational State of Charge limit (MWh)

1.2.12. Discharge Time (estimated discharge time based on remaining energy and current discharge rate)

1.2.13. Charge Time (estimated charge time based on remaining energy capacity and current charge rate)

1.2.14. ESS Discharge Rate [Operating High Limit (MW)]

1.2.15. ESS SDDC [High Limit (MW)]

1.2.16. ESS Charge Rate [Operating Low Limit (MW)]

1.2.17. ESS Maximum Rate of Charge [Low Limit (MW)]

1.2.18. AGC Ramp Rate Increase (+MW/min)

1.2.19. AGC Ramp Rate Decrease (-MW/min)

1.2.20. Average Site Cell Temperature, if available (°C)

1.2.21. % of stack in service

1.2.22. Station Service & Auxiliary Operational Load (MW)

1.2.23. ESS Setpoint Feedback (MW)

1.2.24. Number/percentage of inverters injecting or absorbing power

1.2.25. Number/percentage or inverters available

1.2.26. Number/percentage of inverters offline (e.g., out of service, unit protection trip, momentary cessation, high voltage trip etc.)

PART 2. GENERAL FLOW OF AGC

The resource will send every scan of all its points to GPC (via EMS) and likewise, EMS will update its points every scan. Seller will place the resource on AGC when available for remote control and will echo back to EMS what it has received for the AGC Setpoint.

The ESS is to remain on AGC and available for dispatch when available for dispatch regardless of output. For the avoidance of doubt, AGC will send AGC Setpoints at zero MW during periods where the desired output is zero MW and the Facility online and available for dispatch. A zero MW ESS AGC Setpoint will result in the ESS going to idle and controls should be implemented to ensure the ESS is not discharging when a zero MW AGC setpoint is dispatched to offset any station service at the POI.

PART 3. EXPLANATION OF POINTS

3.1. ESS Setpoint (MW)

3.1.1. This will be a value up to the ESS Discharge Rate for the ESS device in a positive (discharge) direction or to the ESS Charge Rate in a negative (charge) direction. Site to regulate to meet this value at the POI.

3.2. Facility Voltage Regulation Mode Status (Auto/Manual)

3.2.1. This provides status of the voltage control mode and if the Facility's controller is regulating the POI voltage. Its normal state will be in Auto.

3.3. Facility Reactive Support (MVAR) at Zero power status (ON/OFF)

3.3.1. This status indicates the Facility's capability to produce reactive power (MVARs) when at zero active power. Its normal state will be at OFF.

3.4. Gross ESS DC MW

3.4.1. Aggregated Gross ESS DC MW at the ESS. This is the actual DC MW entering the ESS or being discharged from the ESS to the power conversion station. Positive to indicate discharging, Negative to indicate charging.

3.5. ESS Setpoint Feedback (MW)

3.5.1. This is an echo of the value received from EMS for the EMS setpoint.

3.6. ESS AGC Status

3.6.1. This will be an integer value that will range from 0 to 1. A '0' value will indicate the ESS is on local control and a '1' will indicate the ESS is available for AGC remote control.

3.7. Present State of Charge (MWh)

3.7.1. This will be a value representing the actual State of Charge and range from 0 to the SDOE for the device.

3.8. ESS Maximum Operational State of Charge limit (MWh)

3.8.1. This will be a value indicating the maximum usable State of Charge capability for the ESS. This is a calculated value inclusive of any de-rates or equipment issues and not the nameplate to give the operating range of the system. This value should indicate the maximum usable energy and indicates the amount of AC MW that can be discharged to the POI. For clarity, this is not the amount of DC MW that is stored in the ESS. AGC should be able to dispatch the ESS from the Maximum Operational State of Charge to the Minimum Operational State of Charge. IF there are no operational constraints, this value should be equal to the SDOE.

3.9. ESS Minimum Operational State of Charge limit (MWh)

3.9.1. This will be a value indicating the minimum usable State of Charge capability for the ESS. This is a calculated value inclusive of any limiting operational issues and not the nameplate to give the operating range of the system. A value of 0 MWh should indicate the bottom range of usable energy, not necessarily the absolute lowest energy level of the ESS device. AGC should be able to dispatch the ESS from the Minimum Operational State of Charge to the Maximum Operational State of Charge.

3.10. ESS Discharge Time (minutes)

3.10.1. Estimated time to discharge the ESS to the Minimum Operational State of Charge Limit based on the remaining energy and current discharge rate.

3.11. ESS Charge Time (minutes)

3.11.1. Estimated time to charge the ESS to the Maximum Operational State of Charge Limit based on the remaining energy and current charge rate.

3.12. ESS Discharge Rate [Operating High Limit (MW)]

3.12.1. This will be a value indicating the real-time maximum rate of power that the ESS device can discharge. Discharged power is provided as a positive (+) value. This value is dependent on the state of the system (inclusive of any derated equipment or abnormal conditions). If the ESS device is part of a Co-Located Facility, this value will need to take into consideration the POI Limit.

3.13. ESS SDDC [High Limit (MW)]

3.13.1. The guaranteed amount of ESS storage capacity allocated to GPC under this PPA and that represents the guaranteed continuous discharge capability of the ESS for the Storage Device Discharge Duration. This will be a value indicating the maximum rate of power that the ESS device can discharge provided as a positive (+) value. This is independent of the state of the system or any de-rates.

3.14. ESS Charge Rate [Operating Low Limit (MW)]

3.14.1. This will be a value indicating the real-time minimum rate of power that the ESS device can achieve when charging. This will be provided as a negative (-) value. This value is dependent on the state of the system (inclusive of any derated equipment or abnormal conditions).

3.15. ESS Maximum Rate of Charge [Low Limit (MW)]

3.15.1. The Maximum Rate of Charge of the ESS. This will be a value indicating the maximum rate of power that the ESS device can be charged at, from zero MWh to the SDOE, provided as a negative (-) value. This is independent on the state of the system or any de-rates.

3.16. ESS Discharge AGC Ramp Increase (+MW/min)

3.16.1. This will be a value indicating the maximum ramp rate of power the ESS can achieve when increasing output or decreasing the charge setpoint. This will be provided as a positive (+) value. The value should reflect the real-time capability to prevent AGC setpoints from exceeding the tolerance and must not exceed the limits in the Interconnection Agreement.

3.17. ESS Charge AGC Ramp Decrease (-MW/min)

3.17.1. This will be a value indicating the maximum ramp rate of power the ESS can be charged or when decreasing output. This will be provided as a negative (-) value. The value should reflect the real-time capability to prevent AGC setpoints from exceeding the tolerance and must not exceed the limits in the Interconnection Agreement. Under normal conditions, this value should be the same as the ESS Discharge AGC Ramp Increase.

3.18. Average Site Cell Temperature, if available (°C)

3.18.1. This will be a value indicating average site cell temperature provided as degrees Fahrenheit.

3.19. Station Service & Auxiliary Operational Load (MW)

3.19.1. These values will be as defined and described in the PPA.

3.20. % of stacks in service

3.20.1. This will be a value indicating the number of battery stacks/racks in service and expressed as a percentage.

3.21. Number/Percentage of inverters injecting or absorbing Power

3.21.1. Total number of inverters injecting or absorbing power (real or reactive Power) to the grid under normal operation.

3.22. Number/Percentage of inverters available

3.22.1. Total number of inverters available on-line (electrically connected based on inverter's AC breaker status).

3.23. Number/Percentage of inverters offline

3.23.1. The total number of inverters that have stopped injecting power (real or reactive) to the grid for several reasons including but not limited to protection trip, momentary cessation etc. This may be calculated as a difference between inverters available and inverters injecting/absorbing power.

EXHIBIT H – FACILITY ONE-LINE DIAGRAM

[Insert one-line diagram for Facility]

EXHIBIT I – REQUIREMENTS FOR PPA FACILITY

This document describes GPC's required characteristics for the Facility. This document does not include all the legal, regulatory, and technical requirements for the Facility but outlines certain minimum requirements. Seller is required to execute this document acknowledging the following:

PART 1. ESS

1.1. Battery Energy Storage System (BESS)

1.1.1. Units listed to UL9540 2nd edition.

1.1.2. UL9540A large scale fire test report provided at the cell, module, and unit level.

1.1.3. BESS complies with the version of NFPA 855 in effect at the time of Commercial Operation.

1.1.4. Water supply as described in NFPA 855 must be provided.

1.1.5. The level of redundancy (ex. N+1) must be provided for the BESS thermal management system.

1.1.6. Provide Site-specific Hazard Mitigation Analysis (HMA) and Failure Mode and Effects Analysis (FMEA).

1.1.7. Provide detailed augmentation plan for the designed use case over the lifetime of the project.

1.1.8. BESS must be sized to maintain rated nameplate power output capacity at the POI.

1.2. Inverter

1.2.1. BESS inverters must be capable of operating full lead and lag in both charge and discharge conditions.

1.2.2. BESS inverters must be grid forming capable. Bidders must provide documentation demonstrating the inverter's grid forming capability.

1.2.3. Inverter grid forming control points must be integrated into the Facility site control scheme, such that minimal controls retrofit will be required when Owner decides to enable grid forming features.

1.3. Facility Design

1.3.1. Facility engineering and design must account for BESS augmentation plan, including but not limited to site layout, block design, collection system design, aux power design, and controls design.

1.3.2. Battery enclosures must be spaced per NFPA 855.

1.3.3. Backup source must be provided for the BESS auxiliary power in case of extended grid outage to maintain power to the BESS BMS, EMS, fire protection system, and thermal management system (if required).

1.4. Testing

1.4.1. Continuous Power Test, Energy Capacity Test, and RTE Test must be performed for the BESS facility.

1.4.2. Testing must be performed to demonstrate the combined output of BESS are controlled to mitigate equipment overload.

1.4.3. Technology specific characterization testing must be performed. (ex. ramp rate testing).

1.4.4. Additional testing will be performed as required per BESS use case(s).

1.5. End-of Life Disposal / Demolition

1.5.1. Description of the end-of-life disposal/recycling plan to be included in the bid form.

PART 2. ACKNOWLEDGMENT:

Seller hereby confirms that it will meet these requirements and provide evidence of Seller's compliance with all referenced information to GPC upon request.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT J – FORM OF COMMERCIAL OPERATION COMPLETION CERTIFICATE

Georgia Power Company
Resource Planning Director/Capacity Procurement Manager
Bin 10196
241 Ralph McGill Blvd.
Atlanta, Georgia 30308

Re: Commercial Operation Completion Certificate – Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for 2029–2031 All-Source Capacity Needs at **#FacilityName#** dated as of _____ ___, 20__ between **Georgia Power Company** ("**GPC**") and **#SellerLegalName#** ("**Seller**") (the "**PPA**").

In accordance with PPA Section 7.1.5 (*Commercial Operation*), Seller certifies to GPC that Seller fully satisfied the following criteria for Commercial Operation of the Facility:

PART 1 Seller has demonstrated to GPC's reasonable satisfaction that the Facility is capable of receiving and delivering energy obligated to be received or delivered pursuant to this PPA at or to the POI on a reliable basis in accordance with the Interconnection Agreement and Prudent Industry Practices;

i. The Facility's AGC equipment and system control and communications systems, as approved by GPC under PPA Section 10.7 (*AGC*) are completely installed and fully operational, and Seller has provided to GPC a detailed analysis and testing verification pursuant to Section 3.2.A of Exhibit C (*Monthly Capacity Payments; Monthly Capacity Reductions; AGC Performance Metrics and Requirements*) that demonstrates that the these systems are operational and capable of responding to GPC's AGC Setpoint signals to effectively dispatch energy both into and out of the ESS and to the POI, in real-time. Further, Seller confirms that GPC has real-time electronic access to all Facility data GPC requests in order to manage and control these energy flows as well as to retain data and calculate all Performance Metrics;

ii. GPC is able to receive or deliver such energy at the POI on a reliable basis in accordance with Prudent Industry Practices;

iii. Seller has delivered to GPC a certificate from a responsible officer of Seller that is reasonably acceptable to GPC, stating that the Facility has been designed, engineered, constructed, and tested in accordance with Prudent Industry Practices and the terms of the PPA, including the Facility Technical and Design Requirements;

iv. Seller has delivered to GPC all as-built drawings with respect to the Facility, as may be requested by GPC; and

v. Seller has delivered to GPC a certificate from a responsible officer of Seller that is reasonably acceptable to GPC certifying that Seller is in compliance with the Interconnection Agreement and Seller has obtained all applicable Consents required under applicable law to be obtained by Seller at the time of Commercial Operation of the Facility for the construction, ownership, operation and maintenance of the Facility in accordance with this PPA.

(i)
Seller certifies that Commercial Operation of the Facility was achieved as of **#CommercialOperationDate#**. Seller agrees to provide photographs of the Facility and Site at GPC's request. The electrical inspection documentation in support of Seller's certification of Commercial Operation is attached. Seller grants to GPC and its agents, affiliates, successors, and assigns an irrevocable, worldwide, royalty-free, and unrestricted right and license to use, duplicate, modify, sublicense, distribute, display, and otherwise engage the photographs and related intellectual property, including the creation of

derivative works. Seller represents and warrants that it has the exclusive right to grant the license to GPC for the purposes stated in the PPA.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT K – FORM OF STANDBY LETTER OF CREDIT

[Bank Letterhead]
Date of issuance: _____, 20__

Irrevocable Standby Letter of Credit No:_____

"Issuer": _____

Address: _____

"Beneficiary": Georgia Power Company

Address: c/o Southern Company Services, Inc.
Attn: Assistant Treasurer
BIN SC1407
30 Ivan Allen Jr. Blvd., NW
Atlanta, GA 30308

Project ID: GPC-[Add Project ID]

Program ID: 2029-2031 All-Source RFP

"Account Party": _____

Address: _____

"Expiry Date": _____, 20__, and any automatically extended date, as herein provided [(but in no event later than _____, 20__)]

"Total Amount": _____United States Dollars (U.S. $_____)

We, the Issuer, hereby establish in your favor, for the account of the Account Party, our irrevocable standby letter of credit ("**Standby Letter of Credit**"), in the aggregate amount not exceeding the Total Amount.

Funds under this Standby Letter of Credit are available to you on or before the Expiry Date by presentation of your demand signed by one of your officers or authorized representatives, and delivered to us in substantially the form attached as Annex 1 (*Form of Sight Draft*) and referring thereon to the number and date of this Standby Letter of Credit, accompanied by a written and completed certificate signed by a person purporting to be one of your officers or authorized representatives, in the form attached as Annex 2 (*Form of Certificate*), with appropriate insertions.

This Standby Letter of Credit is effective immediately and expires at 5:00 p.m. (Eastern Time) on the Expiry Date. It is a condition of this Standby Letter of Credit that the Expiry Date will be deemed automatically extended without amendment for a period of one year from the present or any future Expiry Date, unless we notify you not less than ninety (90) days prior to any such date, in accordance with the notice provisions set forth herein, that we have elected not to extend the Expiry Date for such additional period.

Delivery of demands and certificates will be made on any day that is a business day for us at or prior to 5:00 p.m. (Eastern Time) at our office located at _____, or at any other office in the United States of America that is designated by us in a written notice delivered to you. If such demand and such certificate are received at any such office on or prior to the Expiry Date, we hereby agree with you that we will duly honor the same within three (3) business days of such presentation. Notwithstanding the foregoing, you may demand payment under this Standby Letter of Credit by facsimile or electronic transmission when promptly confirmed by written demand; however, actual disbursement of funds under a demand presented by facsimile or electronic transmission may not occur until we are presented with the original Standby Letter of Credit.

Partial drawings and multiple presentations may be made under this Standby Letter of Credit, provided, however, that each such demand that is paid by us will reduce the amount available under this Standby Letter of Credit.

Except as is expressly set forth herein, payment of demands made under this Standby Letter of Credit is not subject to any agreement, condition or qualification. The obligation of the Issuer under this Standby Letter of Credit is the individual obligation of the Issuer and is in no manner contingent upon reimbursement with respect thereto.

Funds available for drawing under this Standby Letter of Credit may not directly or indirectly constitute funds or collateral deposited with the Beneficiary, or for the Issuer's account by the Account Party, or pledged with or for the Issuer's account by the Account Party.

This Standby Letter of Credit is transferable and can be successively transferred to any transferee that Beneficiary states in writing to us has succeeded such Beneficiary under this Letter of Credit; provided that such transfer to such transferee is in compliance with applicable U.S. laws and regulations. Transfer of this Standby Letter of Credit to any transferee will be effected by the presentation to us of this Standby Letter of Credit accompanied by a certificate in the form attached as Annex 3 (*Form of Instruction to Assign in Entirety*), with appropriate insertions, signed by a person purporting to be an officer or authorized representative of the Beneficiary. Upon such presentation, we will forthwith issue an irrevocable letter of credit to such transferee with provisions therein consistent with this Standby Letter of Credit.

We will not modify, revoke or terminate this Standby Letter of Credit without your written consent. This Standby Letter of Credit sets forth in full the terms of our undertaking, and such undertaking may not be modified, annulled or amplified by reference to any other document, instrument or agreement referred to herein or in which the Standby Letter of Credit is referred or to which the Standby Letter of Credit relates, and any such reference may not be deemed to incorporate herein by reference any document, instrument or agreement.

To the extent not contrary to the express terms hereof, this Standby Letter of Credit will be governed by the International Standby Practices ("**ISP98**"). This Standby Letter of Credit will be deemed to be a contract made under the laws of the state of Georgia and will, as to matters not governed by the ISP98, be governed by and construed in accordance with the laws of the state of Georgia.

Notices concerning this Standby Letter of Credit may be sent to a party by courier, certified mail, registered mail, facsimile, electronic transmission or similar communications facility to its respective address set forth herein. Any notice, demand, request or other communication is deemed to have been received by the party to whom it is sent at the time of its delivery. Each party may notify the other of any change of address in the manner provided above.

[ISSUING BANK]

By:_____
Authorized Signature

ANNEX 1

FORM OF SIGHT DRAFT

[Insert Place], [Insert Date]

Amount: [Insert Currency] [Insert Amount in Numbers]
[Insert Amount in Letters]

Drawn under Irrevocable Standby Letter of Credit No. _____ of [Insert Name of Issuing Bank]

At Sight

Pay to the Order of [Name of Beneficiary]

In reference to: Irrevocable Standby Letter of Credit No. _____, dated _____.

To: [Insert Name of Issuing Bank]
[Insert Address]

[BENEFICIARY]

By:_____

Title:_____

ANNEX 2

FORM OF CERTIFICATE

Re: [Insert Name of Agreement] dated _____, 20__ ("**Agreement**") between [Name of Account Party] ("[**Account Party**]") and [Name of Beneficiary] ("[**Beneficiary**]").

The undersigned, an officer or authorized representative of [Beneficiary], hereby certifies to [ISSUING BANK] ("**Bank**") with reference to irrevocable standby letter of credit no. ("**Standby Letter of Credit**"), issued by the Bank for the account of [Account Party] in favor of [Beneficiary] that:

(1) (Insert one of the following, as applicable)

Under the Agreement, Beneficiary is entitled to demand payment under the Standby Letter of Credit in the amount of the sight draft accompanying this certificate.

or

[Beneficiary] has received written notice from the Bank in accordance with the terms of the Standby Letter of Credit that the Bank has elected not to extend the Expiry Date of the Standby Letter of Credit for an additional period past its then Expiry Date and the Account Party has failed to deliver a substitute letter of credit in accordance with the terms of the Agreement.

(2) The undersigned is an officer or authorized representative of [Beneficiary] and is authorized to execute and deliver this certificate and to draw upon the Standby Letter of Credit.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Certificate as of this __ day of _____ , 20__.

[BENEFICIARY]

By:_____

Title:_____

ANNEX 3

FORM OF INSTRUCTION TO ASSIGN IN ENTIRETY

Re: Irrevocable Standby Letter of Credit No.

Ladies/Gentlemen:

For value received, the undersigned beneficiary hereby irrevocably assigns to:

[Name of Assignee]

[Address]

all rights of the undersigned beneficiary to demand payment under the above Standby Letter of Credit in its entirety.

By this assignment, all rights of the undersigned beneficiary in such Standby Letter of Credit are transferred to the assignee and the assignee will hereafter have the sole rights as beneficiary thereof. The Account Party will be responsible for all fees and expenses related to the assignment.

The Account Party will be responsible for all fees and expenses related to this assignment.

The Standby Letter of Credit is returned herewith and in accordance therewith we ask you to issue a new irrevocable Standby Letter of Credit in favor of the assignee with provisions consistent with the Standby Letter of Credit.

Sincerely,

[Beneficiary]

By:_____

Title:

EXHIBIT L – FORM OF GUARANTY

This **Guaranty Agreement** ("**Guaranty**"), effective as of _____, 20__ ("**Effective Date**"), is entered into by _____ ("**Guarantor**") in favor of Georgia Power Company ("**Beneficiary**"). Guarantor acknowledges:

- Beneficiary and _____ ("**Company**"), [an Affiliate of Guarantor], have entered into a **Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for All-Source Capacity Request for Proposals for 2029 – 2031 at #FacilityName#** dated as of _____, 20__ with Project Number GPC-#Project Number# (as amended, restated, supplemented or otherwise modified from time to time, the "**PPA**") regarding combined cycle facility located in #FacilityCity, #FacilityState, as further described in Exhibit A (*Facility Description and Additional Details*);
- Beneficiary has required, as an inducement to its entry into the PPA, that Guarantor deliver to the Beneficiary this Guaranty or other Eligible Collateral as and when required under the PPA;
- Guarantor qualifies as a Seller Guarantor under the PPA, and this Guaranty qualifies as Eligible Collateral under the PPA; and
- Guarantor will derive substantial direct and indirect benefit from the transactions contemplated by the PPA.

To induce Beneficiary to enter into and perform its obligations under the PPA, and for and in consideration of the foregoing premises, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Guarantor agrees as follows:

PART 1. DEFINITIONS

1.1. Definitions. Unless otherwise defined in this Guaranty, capitalized terms have the meanings specified or referred to in the PPA.

PART 2. Guaranty

2.1. Guaranty. Guarantor unconditionally and irrevocably guarantees to Beneficiary and Beneficiary's successors and assigns, that Guarantor will make prompt and full payment of any obligations of Company to Beneficiary when due, whether by acceleration or otherwise, with any interest as may accrue under the PPA or under any other documents or instruments now or in the future evidencing, securing, or otherwise relating to the PPA ("**Guaranteed Obligations**"), except that Guarantor's liability under this Guaranty will in no event exceed the aggregate amount of Eligible Collateral that Company must provide in accordance with PPA Part 6 (*Performance Security*) (plus costs of enforcement of this Guaranty as provided in Section 4.4 (*Expenses*)). Guarantor must immediately pay for any obligation of Company upon demand by Beneficiary.

2.2. Guaranty Absolute.

2.2.1. Guarantor Guarantees. Guarantor absolutely guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the PPA, regardless of any law or regulation in effect now, or that may come into effect in the future, in any jurisdiction affecting any of the terms or the rights of Beneficiary regarding the PPA. This Guaranty constitutes a guarantee of payment and not of collection. The obligations of Guarantor under this Guaranty are primary obligations and are several from Company or any other Person, and Guarantor is the principal obligor under this Guaranty. Guarantor's liability under this Guaranty will be direct and immediate and not conditional or contingent upon the pursuit of any remedies against Company or any other person, nor against securities or liens available to Beneficiary or

Beneficiary's successors or assigns. **Guarantor's liability under this Guaranty will be irrevocable, absolute, and unconditional irrespective of, and Guarantor unconditionally and irrevocably waives any defenses it may now have or later acquire in any way relating to:**

A. any change in the time, manner, or place of payment of, or in any other term of, any of the Guaranteed Obligations, or any other amendment, modification, or waiver of, or any consent to departure from, the terms of any Guaranteed Obligations, or any compromise, settlement, release, or termination of any of the Guaranteed Obligations;

B. any change, restructuring, or termination of the corporate structure or existence of Company or any of its subsidiaries, including Guarantor's disposal of any part of Guarantor's interest in Company, or Guarantor's alteration of Guarantor's investment in Company in any manner;

C. any lack of validity or enforceability, in whole or in part, of the Guaranteed Obligations, the PPA, or any agreement or instrument relating the Guaranteed Obligations or the PPA;

D. any failure of Beneficiary to disclose to either Company or Guarantor any information relating to the business, condition (financial or otherwise), operations, performance, properties, or prospects of either Company or any of its subsidiaries now or in the future known to Beneficiary (Guarantor waiving any duty on the part of Beneficiary to disclose the information);

E. any failure, omission, delay, or lack on the part of Beneficiary to enforce, ascertain, or exercise any right, power, or remedy under or pursuant to the terms of the PPA, the Guaranteed Obligations, or this Guaranty;

F. any failure by Beneficiary to commence an action against Company, including as contemplated by O.C.G.A. Section 10-7-24, as amended; any lack of due diligence by Beneficiary in the collection or protection of or realization upon any collateral securing the Guaranteed Obligations;

G. the bankruptcy, insolvency, winding up, dissolution, liquidation, administration, reorganization, or other similar or dissimilar failure or financial disability of Guarantor or Company, or any legal limitation, disability, incapacity, or other circumstance relating to Guarantor or Company;

H. the addition, substitution or partial or entire release of any guarantor, maker, or other Parson (including Company) primarily or secondarily liable or responsible for the payment and observance of the Guaranteed Obligations or by any extension, waiver, amendment, or other action or instrument that may release or discharge (in whole or in part) a guarantor, maker, or other Person (other than as a result of the indefeasible payment of the Guaranteed Obligations in full);

I. the taking, variation, renewal, addition, substitution, subordination, or partial or entire release of any security or other credit support for the Guaranteed Obligations, or the enforcement or neglect to perfect or enforce the security or support; or

J. except as provided in Section 2.3 (*Waivers and Acknowledgements*), any other circumstance whatsoever (including any statute of limitations) or any act of Beneficiary or any existence of or reliance on any representation by Beneficiary that might otherwise constitute a legal or equitable defense available to, or a discharge of, Guarantor.

2.2.2. Guarantee Effectiveness. This Guaranty will continue to be effective or must be reinstated by Guarantor, as applicable, if at any time any payment of the Guaranteed

Obligations should for any reason subsequently be asserted or declared to be void or voidable, or is unwound in any way under any state or federal law, including any provision of the U.S. Bankruptcy Code related to fraudulent conveyance or preference (each, a "**Voidable Transfer**"). Beneficiary or any other person is not required to repay or restore, in whole or in part, any Voidable Transfer, and any attempt to repay or restore any Voidable Transfer will be construed as though the payment had not been made.

2.2.3. No Release of Guaranty. No action that Beneficiary takes or fails to take in connection with the Guaranteed Obligations, or any security for the payment of any of the Guaranteed Obligations, nor any course of dealing with Company or any other person, will release Guarantor's obligations under this Guaranty, affect this Guaranty in any way, or give Guarantor any recourse against Beneficiary.

2.2.4. Enforcement following PPA Event of Default. In the case of an Event of Default under the PPA or regarding any of the Guaranteed Obligations, Guarantor agrees that Beneficiary will have the right to enforce its rights, powers, and remedies under the PPA and Guaranty or under any other instrument now or in the future evidencing, securing, or otherwise relating to the Guaranteed Obligations, and apply any payments or credits received by Company or Guarantor or realized from any security, in any manner and in any order as Beneficiary, in its sole discretion, sees fit, and all rights, powers, and remedies available to Beneficiary in that event will be nonexclusive and cumulative of all other rights, powers, and remedies provided under the PPA, this Guaranty, by law, or in equity. If the Guaranteed Obligations are partially paid at the election of Beneficiary or Beneficiary's successors or assigns, to pursue any of the remedies available to Beneficiary, or if the indebtedness is otherwise partially paid, this Guaranty will nevertheless remain in full force and effect, and Guarantor will remain liable for the entire balance of the Guaranteed Obligations even though any rights that Guarantor may have against Company may be destroyed or diminished by the exercise of the remedy.

2.3. Waivers and Acknowledgments.

2.3.1. Guarantor Notice Waiver. Guarantor unconditionally and irrevocably waives promptness, diligence, presentment, demand of payment, acceptance, notice of acceptance, protest, notice of dishonor, and any other notices regarding any of the Guaranteed Obligations and this Guaranty.

2.3.2. Guarantor Waiver of Guaranty and Acknowledgement of Continuing Obligations. Guarantor unconditionally and irrevocably waives any right to revoke this Guaranty and acknowledges that this Guaranty is continuing in nature and applies to all Guaranteed Obligations, whether existing now or in the future. This Guaranty will extend and be applicable to any modification of the PPA.

2.3.3. Waiver of Rights and Remedies. Guarantor unconditionally and irrevocably waives all rights and remedies accorded by application of law to sureties or guarantors and Guarantor must not assert or take advantage of those rights or remedies, including:

A. any right to require Beneficiary to proceed against Company or any other person or to proceed against or exhaust any security held by Beneficiary at any time or to pursue any other remedy in Beneficiary's power before proceeding against Guarantor;

B. any defense that may arise because of the incapacity, lack of authority, death, or disability of any other Person or the failure of Beneficiary to file or enforce a claim against the estate (in administration, bankruptcy, or any other proceeding) of any other Person; or

C. any defense arising because of the exercise of any right or remedy available to, or election made by, Beneficiary under the U.S. Bankruptcy Code, whether as an unsecured or under secured creditor, seeking adequate protection or otherwise.

2.3.4. Guarantor's Waiver of Defenses Based on Set-Off or Counterclaim. Guarantor unconditionally and irrevocably waives any defense based on any right of set-off or counterclaim against or concerning the obligations of Guarantor under this Guaranty.

2.3.5. Guarantor Waiver of Defenses, Claims, and Discharges. Guarantor unconditionally and irrevocably waives all defenses, claims, and discharges of Company, or any other obligor regarding the Guaranteed Obligations. Without limiting the generality of the preceding sentence, Guarantor will not assert, plead, or enforce against Beneficiary or any other Person any defense of waiver, release, statute of limitations, res judicata, statute of frauds, fraud, incapacity, minority, usury, illegality, or unenforceability that may be available to Company or any other person liable concerning any indebtedness, or any setoff available against Beneficiary to Company or any other Person, whether or not on account of a related transaction. Guarantor expressly waives reliance on any anti-deficiency statute(s). If a foreclosure proceeding is commenced, Guarantor expressly agrees that Guarantor will be and remain unconditionally liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure of any mortgage or security interest securing indebtedness, whether or not the liability of Company or any other person for the deficiency is discharged under statute or judicial decision.

2.4. Subrogation. Despite any payment or payments made by Guarantor under this Guaranty, Guarantor unconditionally and irrevocably waives any rights of subrogation to the rights of Beneficiary against Company and any rights of reimbursement, assignment, indemnification, or implied contract or any similar rights (including any statutory rights of subrogation under U.S. Bankruptcy Code Section 509 (11 U.S.C. § 509)) against Company or against any other guarantor of all or any part of the Guaranteed Obligations until when the Guaranteed Obligations have been indefeasibly performed in full. If, despite the preceding sentence, any amount will be paid to Guarantor on account of the subrogation or similar rights at any time when all of the Guaranteed Obligations will not have been indefeasibly paid in full, those amounts will be held by Guarantor in trust for Beneficiary and Guarantor must turn over to Beneficiary those amounts in the exact form received by Guarantor, to be applied against the Guaranteed Obligations in the order that Beneficiary may determine in Beneficiary's sole discretion.

2.5. Contribution, Indemnification, Reimbursement. Guarantor unconditionally, irrevocably, and absolutely waives all right of contribution, indemnification, reimbursement, or similar rights against Company regarding the Guaranty, whether the rights arise under an express or implied contract or by operation of law, and it is the intention of Guarantor and Company that Guarantor will not be deemed to be a "creditor" (as defined in U.S. Bankruptcy Code Section 101 or any other applicable law) of Company because of the existence of this Guaranty if Company becomes a debtor in any proceeding under the U.S. Bankruptcy Code or any other applicable law.

2.6. Agreement regarding Bankruptcy of Company. So long as any Guaranteed Obligations are owed to Beneficiary, Guarantor must not, without the prior written consent of Beneficiary, commence, or join with any other person in commencing, any bankruptcy, reorganization or insolvency proceeding against Company.

PART 3. Representations and Warranties

3.1. Guarantor hereby represents and warrants as follows:

3.1.1. Organization. Guarantor is #a ***OR*** #an #GuarantorEntityType# organized, validly existing, and in good standing under the laws of the state of #GuarantorEntityRegistrationState.

3.1.2. Authorization; No Conflict. The execution and delivery by Guarantor of this Guaranty, and the performance by Guarantor of its obligations under this Guaranty: (i) are within Guarantor's #GuarantorEntityType# powers; (ii) have been duly authorized by all necessary #GuarantorEntityType# action; (iii) do not contravene its #bylaws ***OR*** #operating agreement ***OR*** #OtherOrganizationalDocument or any law or regulation applicable to or binding on Guarantor or any of its properties; and (iv) do not require the consent or approval of any Person that has not already been obtained or the satisfaction or waiver of any conditions precedent to the effectiveness of this Guaranty that have not been satisfied or waived.

3.1.3. Enforceability. This Guaranty constitutes the legal, valid, and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except to the extent that that enforceability may be limited by applicable bankruptcy, insolvency, dissolution, reorganization, moratorium, liquidation, or other similar laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

3.1.4. No Bankruptcy Proceedings. There are no bankruptcy proceedings pending or being contemplated by Guarantor or, to Guarantor's knowledge, threatened against it.

3.1.5. No Legal Proceedings. There are no legal proceedings that would be reasonably likely to materially adversely affect Guarantor's ability to perform this Guaranty.

PART 4. MISCELLANEOUS

4.1. Continuing Guaranty; Assignment. This Guaranty is a continuing guaranty and will: (i) remain in full force and effect until all of the Guaranty Obligations have been satisfied; (ii) consistent with the terms of this Guaranty, apply to all Guaranteed Obligations whenever arising; (iii) be binding upon Guarantor, its successors and assigns; and (iv) inure to the benefit of, and be enforceable by, Beneficiary and its permitted assignees under this Guaranty. Guarantor must not assign or delegate Guarantor's rights or obligations under this Guaranty without: (i) the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion; and (ii) a written assignment and assumption agreement in form and substance reasonably acceptable to Beneficiary. Without prejudice to the survival of any of the other agreements of Guarantor under this Guaranty, the agreements and obligations of Guarantor contained in Section 4.4 (*Expenses*) (regarding enforcement expenses) and the last sentence of Section 2.2.1(*Guarantor Guarantees*) will survive the payment in full of the Guaranteed Obligations and all of the other amounts payable under this Guaranty.

4.2. Notices. All notices, requests, demands and other communications that are required or may be given under this Guaranty must be in writing and will be deemed to have been given when actually received if: (i) personally delivered; (ii) transmitted by facsimile, electronic, or digital transmission method; or (iii) if sent by certified or registered mail, return receipt requested. In each case, notice will be to the contacts identified in this Section 4.2 (*Notices*) or to the other place and with the other copies as Beneficiary or Guarantor may designate for itself by written notice to the other under this Section 4.2 (*Notices*). Delivery by facsimile of an executed counterpart of a signature page to any amendment or waiver of any provision of this Guaranty will be effective as delivery of an original executed counterpart to the amendment or waiver.

Notice to GPC:

Georgia Power Company
c/o Southern Company Services, Inc.
Attn: Assistant Treasurer, BIN SC 1407
30 Ivan Allen Junior Boulevard, NW
Atlanta, GA 30308
G2GPCERG@southernco.com

With Copy to:

Georgia Power Company Legal Dept.
Attn: Commercial & Transactions, Bin 10180
241 Ralph McGill Blvd., N.E.
Atlanta, GA 30308

Notice to Guarantor:

#CompanyName

Attn: #IndividualName

#Title

#StreetAddress

#City, #State #ZipCode

#Email#

4.3. Delay and Waiver. No failure on the part of Beneficiary to exercise, and no delay in exercising, any right under this Guaranty will operate as a waiver any right under this Guaranty; nor will any single or partial exercise of any right under this Guaranty preclude any other or further exercise of the right under this Guaranty or the exercise of any other right. The remedies provided in this Guaranty are cumulative and not exclusive of any remedies provided by law.

4.4. Expenses. Guarantor agrees to pay or reimburse Beneficiary and any permitted assignees of Beneficiary on demand for its reasonable costs, charges, and expenses (including reasonable fees and expenses of counsel) incurred in connection with the enforcement of this Guaranty or caused by any breach by Guarantor of any of its obligations under this Guaranty, including any actions taken in any bankruptcy or insolvency proceedings, if Guarantor is required to pay under this Guaranty.

4.5. Entire Agreement; Amendments; Other Guarantees. This Guaranty and any agreement, document, or instrument attached to this Guaranty or referred to in this Guaranty integrate all the terms and conditions mentioned in or incidental to this Guaranty and supersede all oral negotiations and prior writings in respect to the subject matter of this Guaranty. In the event of any conflict between the terms and conditions of this Guaranty and any related agreement, document, or instrument, the terms and conditions of this Guaranty will prevail. This Guaranty may only be amended or modified by an instrument in writing signed by each of Guarantor and Beneficiary and any permitted assignees of Beneficiary. Without limiting the preceding in this Section 4.5 (*Entire Agreement; Amendments; Other Guarantees*): (i) this Guaranty will not release, modify, revoke, or terminate any other guaranty existing previously, now, or in the future executed by Guarantor; nor will any other guaranty previously, now, or in the future executed by Guarantor release, modify, revoke, or terminate this Guaranty; and (ii) all of Guarantor's liabilities and obligations and Beneficiary's rights and remedies under this Guaranty are in addition to and cumulative with those under any other guaranty executed by Guarantor in favor of Beneficiary or any affiliate of Beneficiary on or about the Effective Date or at any other time.

4.6. Headings. The headings of the various Sections of this Guaranty are for convenience of reference only and will not modify, define, or limit any of the terms or provisions in this Guaranty.

4.7. Governing Law; Consent to Jurisdiction.

4.7.1. Governing Law. This Guaranty will be construed and interpreted, and the rights of the parties determined, in accordance with the laws of the state of Georgia, without giving effect to principles of conflicts of law that would require the application of the laws of another jurisdiction.

4.7.2. Consent to Jurisdiction. Guarantor irrevocably and unconditionally: (i) agrees that the exclusive jurisdiction for any suit, action, or other legal proceeding arising out of this Guaranty will be brought in the United States District Court for the Northern District of Georgia

or in any Georgia State court of general jurisdiction in Fulton County, Atlanta, Georgia; (ii) consents to the jurisdiction of those courts in those suits, action, or proceeding; and (iii) waives any objection that the Person may have to the laying of venue of the suit, action, or proceeding in the court.[**Applicable Only to Foreign Guarantor:** Guarantor and Beneficiary further agree that a final judgment in any action or proceeding arising out of or relating to this Guaranty will be conclusive and may be enforced in any other jurisdiction within or outside the Untied States by suit on the judgment, a certified or exemplified copy of which will be conclusive evidence of the fact and the amount of indebtedness or liability therein described, or in any other manner provided by applicable law.]

4.7.3. [Applicable Only to Foreign Guarantor: Guarantor's Process Agent. Guarantor irrevocably designates, appoints and empowers [_____ Georgia, ____ United States of America] as its authorized agent to receive on its behalf and on behalf of its property service of copies of the summons and complaint and any other process which may be served in any action or proceeding between Beneficiary and Guarantor arising out of or relating to this Guaranty. The service may be made by mailing or delivering a copy of the process in care of the process agent, and Guarantor irrevocably authorizes and directs its designated process agent to accept the service on its behalf. Guarantor further agrees that failure by a process agent appointed in accordance with this section to notify Guarantor of the process will not invalidate the process or service or the proceeding concerned. Despite the preceding sentences, nothing in this Guaranty will affect the rights of either party to serve process in any other manner permitted by applicable law. Guarantor will maintain the process agent, or any other Person located within the State of Georgia as may be acceptable to Beneficiary, as its agent for service of process in the State of Georgia during the duration of this Guaranty and twelve months after, at Guarantor's sole cost and expense. If for any reason, the appointed process agent is no longer acting as process agent, Guarantor must promptly (and in any event within seven Days) appoint a replacement agent in the State of Georgia as its authorized agent to receive on its behalf and on behalf of its property, service of copies of the summons and complaint and any other process which may be served in any action or proceeding between Beneficiary and Guarantor arising out of or relating to this Guaranty. If Guarantor fails to appoint a replacement process agent as provided in this Section 4.7.3, Beneficiary may appoint the replacement process agent on behalf of Guarantor, at Guarantor's sole cost and expense.]

4.7.4. [Applicable Only to Foreign Guarantor: Payment in U.S. Dollars; Judgement Currency. This Guaranty is made by the Guarantor regarding a transaction in which the specification of payment in United States Dollars ("**Dollars**") and payment at the designated place of payment is of the essence, and Dollars will be the currency of accounting in all events. The payment obligations of the Guarantor under this Guaranty will not be discharged by any amount paid in another currency or in another place, whether in accordance with a judgment or otherwise, to the extent that any amount paid on conversion to Dollars and transferred to the designated place of payment under normal banking procedures does not yield the amount of Dollars due under this Guaranty.]

4.7.5. [Applicable Only to Foreign Guarantor: Withholding Taxes.

A. Each payment by Guarantor to Beneficiary in accordance with this Guaranty must be made free and clear of, and without deduction or withholding for or on Beneficiary of, any present or future taxes, duties, assessments, fees, deductions, withholding, levies, imposts, or charges of whatsoever nature (other than taxes imposed on income or gross revenue), together with any liabilities (including penalties, interest and expenses) in regarding the preceding imposed or levied by or on behalf of the government of any jurisdiction(s) in which the Guarantor is organized, headquartered, or conducting business, or any political subdivision of the government or any authority or agency of the government having the power to tax ("**Withholding Taxes**"), unless the deduction or withholding is required by the laws of any jurisdiction(s) in which the Guarantor is organized, headquartered, or conducting business, or any province or political subdivision of the jurisdiction(s) or by the administrative practice of any taxing

authority. If any such deduction or withholding is required, or if no such deduction or withholding is required but Withholding Taxes are otherwise payable concerning the payment, Guarantor must:

(i). Pay any additional amount to Beneficiary as may be necessary to ensure that Beneficiary receives and retains a net sum after such deduction, withholding, or payment of Withholding Taxes (including any deduction, withholding, or payment of Withholding Taxes regarding the additional amount), free from any liability regrading the Withholding Taxes, equal to the sum that Beneficiary would have received and retained had no such deduction or withholding of Withholding Taxes been made or required to be made and had no such Withholding Taxes been payable;

(ii). Deduct the Withholding Taxes from the payment:

(iii). Pay the full amount deducted to the relevant authority on account of the Withholding Taxes within the time provided under, and otherwise in accordance with applicable law or any jurisdiction; and

(iv). Promptly after the date the Withholding Taxes are due under the applicable law of any jurisdiction, deliver to Beneficiary the forms prescribed by the relevant authority of the Withholding Taxes.

B. Without duplication of Section 4.7.5.A above, Guarantor agrees to indemnify and hold harmless Beneficiary for any Withholding Taxes that may become payable by Beneficiary concerning any payment made by Guarantor under this Guaranty. Without limiting the generality of the preceding sentence, if:

(i). Guarantor or Beneficiary is assessed or reassessed by any applicable taxing authority for any Withholding Taxes regarding any payment made by the Guarantor under this Guaranty, Guarantor must pay the Withholding Taxes together with interest or penalties on the Withholding Taxes to the taxing authority on behalf of Beneficiary and without recourse against Beneficiary within 30 Days of demand by Beneficiary; or

(ii). Beneficiary pays any Withholding Taxes regarding any payment made by Guarantor under this Guaranty, Guarantor agrees to indemnify Beneficiary upon receipt of the notice called or in Section 4.7.5.D. below.

C. Without duplication of Section 4.7.5.A. or B. above, Guarantor agrees to indemnify and hold harmless Beneficiary for any additional taxes on net income that Beneficiary may be obligated to pay because of the receipt by it or payment by Guarantor of any amount under this Section 4.7.5.

D. Beneficiary will promptly notify Guarantor of any Withholding Taxes that Beneficiary has paid or received an assessment or reassessment from any applicable taxing authority and for which the Guarantor is required to indemnify it in accordance with this Section 4.7.5 and of the amount payable to it by Guarantor this Section 4.7.5, and Guarantor will indemnify Beneficiary within 60 Days of receipt of such notice. Beneficiary will reasonably determine the amount payable to it, will contest in good faith any taxes that Beneficiary believes in good faith are not assessable, and the determination will, absent manifest error, be final and binding on Guarantor.

E. Guarantor's obligations under this Section 4.7.5 will survive for one year following termination of this Guaranty and the payment of all amounts payable under other provisions of this Guaranty.

4.7.6. [Applicable Only to Foreign Guarantor: Waiver of Objection to Venue. GUARANTOR IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT GUARANTOR MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING BETWEEN THEM ARISING OUT OF OR RELATING TO THIS GUARANTY BROUGHT IN ANY COURT

IN OR OF THE STATE OF GEORGIA, AND HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY COURT IN OR OF THE STATE OF GEORGIA HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.]

4.7.7. [Applicable Only to Foreign Guarantor: Waiver of Immunity. TO THE EXTENT THAT GUARANTOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT IN THE STATE OF GEORGIA OR FROM ANY LEGAL PROCESS THEREIN, GUARANTOR HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, SUCH IMMUNITY AND AGREES NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE, OR OTHERWISE, IN ANY SUCH SUIT, ACTION, OR PROCEEDING, THE DEFENSE OF SOVEREIGN IMMUNITY, OR ANY CLAIM: THAT (1) GUARANTOR IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF THE COURTS IN THE STATE OF GEORGIA BY REASON OF SOVEREIGN IMMUNITY OR OTHERWISE; (2) GUARANTOR IS IMMUNE FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO THE JUDGMENT, ATTACHMENTS IN AID OF EXECUTION, EXECUTION OR OTHERWISE) REGARDING ITSELF OR ITS PROPERTY, BY REASON OF SOVEREIGN IMMUNITY; (3) THAT ANY ACTION IS BROUGHT IN AN INCONVENIENT FORUM; (4) THAT THE VENUE OF ANY ACTION IS IMPROPER; OR (5) THAT THIS GUARANTY MAY NOT BE ENFORCED IN OR BY A FEDERAL COURT IN THE STATE OF GEORGIA. THE GUARANTOR EXPRESSLY ACKNOWLEDGES THAT THE FOREGOING WAIVERS AND SUBMISSIONS TO JURISDICTION ARE INTENDED TO BE IRREVOCABLE UNDER THE LAWS OF THE STATE OF GEORGIA AND OF THE UNITED STATES OF AMERICA AND OF THE LAWS APPLICABLE TO THE GUARANTOR, INCLUDING THE LAWS OF THE JURISDICTION IN WHICH THE GUARANTOR IS ORGANIZED.]

4.7.8. Waiver of Right to Jury Trial. GUARANTOR UNCONDITIONALLY AND IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO, THIS GUARANTY, OR THE ACTIONS OF BENEFICIARY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT OF THIS GUARANTY.

4.8. Severability. Any provision of this Guaranty that is prohibited or unenforceable will be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions of this Guaranty.

4.9. Execution and Attestation.

4.9.1. Electronic Signature. This Guaranty may be executed by handwritten signature or Electronic Signature. An "**Electronic Signature**" means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a Person with the intent to sign the record, including facsimile or e-mail electronic signatures. Guarantor acknowledges that electronic records and Electronic Signatures may be used in connection with the execution of this Guaranty and Electronic Signatures transmitted by electronic mail in so-called ".pdf" format will be legal and binding and will have the same full force and effect as if a paper original of this Guaranty had been delivered and signed using a handwritten signature. Guarantor: (i) agrees that an Electronic Signature, whether digital or encrypted, is intended to authenticate this Guaranty and to have the same effect as a handwritten signature; (ii) intends to be bound by the signature (whether original, faxed, or electronic) on any document sent or delivered by facsimile, electronic mail, or other electronic means; (iii) is aware that Beneficiary will rely on the signatures; and (iv) waives any defenses to the enforcement of the terms of this Guaranty based on the forms of signature described in this Section 4.9 (*Execution and Attestation*). If Guarantor executes this Guaranty by Electronic Signature, Guarantor expressly consents under the Electronic Signatures in Global and National Commerce Act ("**E-SIGN**"), and Uniform Electronic Transactions Act as enacted in the State of Georgia ("**UETA**"), that a signature by fax, email, or other electronic means will

constitute an Electronic Signature to an Electronic Record under both E-SIGN and UETA regarding this transaction.

4.9.2. Digital or Electronic Signature. In addition to his Guaranty, any other documents to be delivered in connection with this Guaranty may be executed by handwritten signature or Electronic Signature. Guarantor acknowledges that any digital or Electronic Signature (including pdf, facsimile, or electronically imaged signatures provided by DocuSign or any other digital signature provider) appearing on this Guaranty or other documents to be delivered in connection with this Guaranty are the same as handwritten signatures for the purposes of validity, enforceability, or admissibility, and that delivery to Beneficiary of an Electronic Signature, or a signed copy of, this Guaranty and related documents may be made by facsimile, email, or other electronic transmission.

Guarantor has caused this Guaranty to be executed and delivered under seal by its authorized representative as of Effective Date.

#GuarantorLegalName#

By: _____

Name Printed: _____

Title: _____

Date: _____

EXHIBIT M –VIE CERTIFICATION

AGREEMENT – Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for All-Source Capacity Request for Proposals for 2029 – 2031 at #Facility Name# dated #Month #Day, #Year between Georgia Power Company ("**GPC**"), and **#SellerLegalName#** ("**Seller**") ("**PPA**"). Capitalized terms used herein will have the meaning assigned in the Agreement.

The undersigned individual, being the Chief Financial Officer of Seller[1] and having responsibilities for financial accounting matters associated with this PPA, certifies that this PPA WILL (_____)/WILL NOT (_____) require Seller, over the Term and based on U.S. Generally Accepting Accounting Principles in effect as of the date of this certificate, to deconsolidate on its books and records any assets, liabilities, cash flow, profits, or losses of Seller as a result of GPC being determined to be the Primary Beneficiary. My determination of the most likely accounting treatment of this transaction results from my personal consideration after necessary discussions with relevant officers of Accounting Standards Codification ("**ASC**") Topic 810, Consolidation, and the following factual matters:

1) Seller's accounting policies, procedures, and internal controls are sufficient to provide GPC with an appropriate basis for confirming the information contained herein.

   _____Yes
   _____No (please explain)

   *Explain:*_____

2) Seller qualifies for one of the scope exceptions listed in paragraphs 810-10-15-12 and 810-10-15-17 of ASC Topic 810.

   _____Yes
   _____No (please explain)

   *Explain:*_____

3) Seller is financed with equity equal to or greater than 10% of Seller's total assets per paragraphs 810-10-25-45 to 47 of ASC Topic 810.

   _____Yes
   _____No (please explain)

   Explain:_____

4) The PPA revenues correlate with fluctuations in Seller's operating cash flows (operating

[1] If Seller's business structure does not designate an officer with this or a similar title, Seller must provide written documentation affirming the authority of the individual who attests to this certification.

expenses).

_____Yes
_____No (please explain)

Explain:_____

5) The PPA reduces variability in the fair value of Seller's assets, for example by absorbing fuel or electricity price risk.

_____Yes
_____No (please explain)

Explain:_____

6) The PPA Term is for greater than 50% of the remaining economic life of the unit.

_____Yes
_____No

7) The PPA is for substantially all of the proposed Facility's productive output.

_____Yes
_____No

8) GPC and its affiliates participated significantly in the design or redesign of the Facility.

_____Yes
_____No

9) The percentage that the Facility's fair value represents, of the fair value of the proposed Seller's total assets, is approximately;

_____%

10) The Facility is essentially the only source of payment for specified liabilities or specified other interest (there is specific debt associated with the Facility).

_____Yes
_____No

[CERTIFICATION ON NEXT PAGE]

Certification

The above information (and any attachments) has been completed in full and agrees with our records as of the date of this Certification.

#SellerLegalName#

By: _____

Name

Printed: _____

Title: _____

Date: _____

EXHIBIT N – FINANCE LEASE CERTIFICATION

CERTIFICATION AS TO CERTAIN FACTUAL STATEMENTS RELATED TO THE PROPOSED TRANSACTION WITH RESPECT TO FINANCE LEASE TREATMENT

*(While completion of this certification is a requirement, the assertions in this certification are relevant only if a lease is identified in accordance with Accounting Standard Codification ("**ASC**") Topic 842, Leases.)*

AGREEMENT – Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for All-Source Capacity Request for Proposals for 2029 – 2031 dated #Month #Day, #Year between Georgia Power Company ("**GPC**") and **#SellerLegalName#** ("**Seller**") ("**PPA**"). Capitalized terms used in this certification will have the meaning assigned in the PPA.

The undersigned individual, being the Chief Financial Officer[1] of Seller and **[having responsibilities/based on information I have received from individuals responsible]** for financial accounting matters arising from this PPA, based on my personal consideration after necessary discussions with relevant officers of factual matters hereby certifies the following based on my understanding of ASC Topic 842, Leases.

1. The PPA DOES (_____)/DOES NOT (_____) transfer ownership of the Facility at or by the end of the PPA Term as described in paragraph 842-10-25-2(a) of ASC Topic 842.

2. The PPA DOES (_____)/DOES NOT (_____) contain a purchase option for the Facility that is reasonably certain to be exercised as described in paragraph 842-10-25-2(b) of ASC Topic 842.

3. The PPA Term IS (_____)/IS NOT (_____) equal to the major part or 75% or more of the estimated remaining economic life of the Facility offered as described in paragraph 842-10-25-2(c) of ASC Topic 842.

4. The present value of the minimum lease payments allocated to the Facility at the beginning of the PPA Term IS (_____)/IS NOT (_____) greater than or equal to substantially all or 90% of the fair value of the Facility offered as described in paragraph 842-10-25-2(d) of ASC Topic 842.

5. The Facility IS (_____)/IS NOT (_____) of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the PPA Term as described in paragraph 842-10-25-2(e) of ASC Topic 842.

If I have responded in the affirmative to one or more of the above factual statements, I have attached a good faith statement of the dollar amounts that the GPC would be required to capitalize and the residual value of the Facility at the end of the Term.

[CERTIFICATION ON NEXT PAGE]

[1] If Seller's business structure does not designate an officer with this or a similar title, Seller must provide written documentation affirming the authority of the individual who attests to this certification.

Certification

The above information (and any attachment) agrees with Seller's records as of the date of this Certification.

#SellerLegalName#

By: _____

Name Printed: _____

Title: _____

Date: _____

EXHIBIT O – TRANSFER OF INFORMATION ACKNOWLEDGEMENT

TRANSFER OF INFORMATION ACKNOWLEDGEMENT

#SellerLegalName# ("**Seller**") and **Georgia Power Company** ("**GPC**") have entered into the **Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for All-Source Capacity Request for Proposals for 2029 – 2031 at GPC-#ProjectID# (#FacilityName#)** ("**PPA**") dated as of _____, 202__. The PPA contemplates that Seller will provide to GPC or GPC's affiliate Southern Company Services, Inc. ("**SCS**") as agent for the transmission-owning subsidiaries of Southern Company (GPC, Alabama Power Company, and Mississippi Power Company) certain information that could be considered non-public information that potentially has implications under the Federal Energy Regulatory Commission ("**FERC**") Standards of Conduct. Seller acknowledges that the information is being provided for the purposes of operational implementation and administration of the PPA (which includes conducting GPC's system operations and dispatch functions) and will be used by GPC or SCS individuals in both Transmission/Distribution and energy affiliate/wholesale marketing unit functions under the FERC Standards of Conduct.

The individuals within the Southern Company organizations indicated above may use the information only for purposes of implementing and administering the PPA (including conducting GPC's system operations and dispatch functions). Seller understands that the information will not be used or disseminated in any manner contrary to the confidentiality provisions in the PPA or in violation of the FERC Standards of Conduct.

Seller's provision of this information has not been and is not being provided in exchange for any preferential treatment, either operational or rate-related, by SCS or by any of the transmission-owning subsidiaries of Southern Company. Seller also acknowledges that Seller is not providing the information under duress or coercion. In accordance with FERC requirements, SCS may post on Southern Company's Open Access Same-time Information System (OASIS) the fact of Seller's consent to the provision of the information specified above to certain employees that may be employed within organizational units deemed to be energy affiliates/wholesale marketing units under the Standards of Conduct.

Acknowledged on behalf of Seller by Seller's authorized representative signing below:

#SellerLegalName#

By: _____

Name Printed: _____

Title: _____

Date: _____

EXHIBIT P – ENVIRONMENTAL COMPLIANCE CERTIFICATION

CERTIFICATION OF ENVIRONMENTAL COMPLIANCE

AGREEMENT – Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from an Energy Storage System for All-Source Capacity Request for Proposals for 2029 – 2031 at #FacilityName# dated as of _____ ___, 20__ between **Georgia Power Company** ("**GPC**"), and **#SellerLegalName#** ("**Seller**") (the "**PPA**"). Capitalized terms used herein will have the meaning assigned in the PPA.

The undersigned individual, being the [●] of Seller and having responsibilities for [*environmental compliance and reporting*] matters associated with this PPA, certifies to the following:

1. Since the date of Seller's prior Certificate of Environmental Compliance delivered in accordance with the PPA, there have been no changes in the design of the Facility that resulted in or, to the best of the knowledge of the undersigned after reasonable inquiry, are expected to result in, additional impacts to the environment that have not been previously disclosed in writing to GPC.

_____Yes
_____No (please explain)
Explain:_____

(a) If "no," a figure set or plan sheets that highlights such changes is attached.
(b) If "no," copies of all documentation that all necessary Permits have been obtained and/or that the appropriate Governmental Authority coordination has occurred to legally allow for such impacts is attached.

2. A list of Permits for the Facility that were obtained (opened) or Governmental Authority prescriptions that were issued since the previous Certification is attached.
3. A list of Permits for the Facility that were applied for but have not yet been obtained (opened) since the previous Certification is attached.
4. A list of any notices of violation (NOV) that were issued with respect to Seller [or in connection with the Facility], including: (i) the Governmental Authority that issued the NOV, (ii) the status of remediation of the violation; and (iii) if remediation has not been completed, the duration anticipated for resolution is attached. Copies of any NOVs are also attached.

Attached is a list identifying (by name and address) any adjacent landowner, lessee or neighbor complaints against Seller or the Facility, as well as: (i) a general description of the complaint; and (ii) plans that Seller took to resolve the complaint or, if not yet resolved, what actions Seller has taken to date, or intends to take, to resolve the complaint, along with a timeline for completing such actions.

6. A list of any Permits and/or other Governmental Authority prescribed actions that have been fulfilled and/or closed since the previous Certification is attached.
7. Except as already referenced or included in an attachment to this Certification, there are no other documents, notices or correspondence from any Governmental Authority indicating that the Facility and the Site is not in compliance with or is not in good standing under, and Environmental Laws, Permit or other Governmental Authority prescribed actions.

Confirmation

The above information (and any attachments) has been completed in full and agrees with our records as of the date of this Certification.

#SellerLegalName#

By: _____
Name Printed: _____
Title: _____
Date: _____

EXHIBIT Q – NOTICES

Address for delivery of Eligible Collateral for Performance Security and Upgrade Security in accordance with PPA Section 6.5 (*Delivery of Eligible Collateral for Performance Security*) and PPA Section 7.4 (*Grid Cost Improvements*):

Georgia Power Company
c/o Southern Company Services Inc.
Attn: Assistant Treasurer, BIN SC1407
30 Ivan Allen Jr. Blvd.
Atlanta, Georgia 30308

Addresses for delivery of notices to the Parties in accordance with PPA Section 20.4 (*Notice*):

In accordance with PPA Section 20.4, all notices must include the GPC project identification number referenced in this PPA's title and the Facility name.

Notice to GPC:

Georgia Power Company
Attention: #GPCContact Name
241 Ralph McGill Boulevard N.E.
BIN #BinNumber#
Atlanta, Georgia 30308
Email: #GPCNoticeEmail

With Copy To:

Georgia Power Company Legal Dept.
Attn: Commercial & Transactional Counsel
Bin 10180
241 Ralph McGill Blvd., N.E.
Atlanta, GA 30308

Notice to Seller:

#SellerLegalName#
Attention: #SellerContactIndividualName#
#Title
#SellerAddress
#City, #State #Zip
Email: #SellerContactEmail#

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
All-Source Capacity RFP for 2029–2031
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 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 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. The 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 All-Source Capacity RFP for 2029-2031 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 to the Code sections, 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 1.1.5 (*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 specified in Exhibit A-1 (*Facility Information and Additional Details*).

Benefit Plan: Any "pension plan" or "welfare plan" within the meaning of Section 3(2) or 3(1) of ERISA, any "employee benefit plan" within the meaning of Section 3(3) 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, in each case, whether or not tax-qualified and whether or not subject to ERISA.

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, blueprints 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 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 (including any sale of capacity or energy); (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; (v) would involve any change to the design, administration or operation of the energy market; or (vi) would otherwise reasonably be expected to have a material adverse effect on GPC. For purposes of clauses (ii) and (vi), GPC and its Affiliates will each be deemed to be the same size and scale of the Facility.

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.

Casualty Loss: As defined in Section 5.17.1 (*Occurrence of Casualty Loss*).

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 (*Lease Assignment Consent*) attached to this APA.

Deemed PWA Compliance: As defined in Section 3.19(xi) (*Tax Benefits*).

Delay Liquidated Damages: As defined in Section 2.1.3 (*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 of the three 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 1.1.4 (*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 before 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 (with non-transferable Facility Insurance Policies identified in Section 3.17.1 of the Seller Disclosure Schedule);
(g) Facility Intellectual Property;
(h) Facility IT Assets;
(i) Facility Permits (with non-transferable Facility Permits identified in Section 3.9.1 of the Seller Disclosure Schedule);
(j) Environmental Attributes;
(k) Renewable Energy Incentives (with non-transferable Renewable Energy Incentives identified in Section 3.19.5 of the Seller Disclosure Schedule);
(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 3.12.1 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 and insuring 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 or Section 205 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) (*Definitions of Final Closing Adjustment Statement and Final Closing Working Capital*).

Final Closing Working Capital: As defined in Section 2.2.3(iii) (*Definitions of Final Closing Adjustment Statement and Final Closing Working Capital*).

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(vi) (*GPC 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*).

GPC Termination Payment: The amount specified in Exhibit A-1 (*Facility Information and Additional Details*).

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: Regarding 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: 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 and reflected as a liability in Closing Date Working Capital; (iii) lease obligations of the Person that are capitalized on the balance sheet of the 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 the liabilities have been assumed by such first Person; (v) liabilities of the Person regarding letters of credit or 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 8.5 (*Notice of Proceeding*).

Indemnified GPC Party: 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 by the applicable Person(s) listed in Exhibit A-1 (*Facility Information and Additional Details*).

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 (*Facility 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) (*Objection Notice and Review Period*).

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.

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.

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) (*Objection Notice and Review Period*).

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) (*Seller 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 (*Title; Real Property Agreements*), Section 3.13 (*Title to Facility Assets*), Section 3.18 (*Taxes*), Section 3.27 (*Brokers*), Section 3.28 (*Development Fees*), 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, or liabilities, operations, or condition (financial or otherwise) 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, in accordance with this 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 concerning 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 All-Source Capacity RFP for 2029–2031
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, "**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, except in the case of the sole negligence or intentional wrongdoing of a GPC On-Site Representative.

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 ("**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 Facility Permits*); 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 (*Working Capital 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. If the Closing occurs under this APA, then GPC will return the full amount of the Upgrade Security to Seller within 10 Business Days after the Closing Date. Alternatively, in the event of early termination of this APA before Closing, GPC may draw upon the Upgrade Security, subject to repayment in accordance with any applicable Open Access Transmission Tariff (OATT).

PART 2. CLOSING; PURCHASE PRICE ADJUSTMENTS; PURCHASE PRICE ALLOCATION.

2.1 Closing.

2.1.1. Closing Date. The consummation of the transactions described in Section 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.

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 or a Casualty Loss under which Seller complies with the requirements of Section 5.17 (*Casualty Loss*), then Seller will be liable to GPC for liquidated damages, in accordance with Exhibit A-1 (*Facility Information and Additional Details*), per day for each day after the Required Closing Date until the Closing Date ("**Delay Liquidated Damages**"). To recover Delay Liquidated Damages owed under this Section 2.1.3 (*Delay Liquidated Damages*). GPC will either: (i) deduct the 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*); or (ii) GPC will invoice Seller for the Delay Liquidated Damages, and Seller must pay the Delay Liquidated Damages within five business days. The Parties acknowledge and agree that: (i) the agreements contained in this Section 2.1.3 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.

2.1.4. Delay Caused by Casualty Loss. If Closing occurs after the Required Closing Date because of a Casualty Loss and Seller Complies with the requirements of Section 5.17 (*Casualty Loss*), then GPC will have the right to: (i) delay the Closing Date; or (ii) terminate this APA in accordance with GPC's rights under Section 5.17.

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 materially 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) (*Objection Notice and Review Period*), 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) (*Timely Objection; Independent Accountant Binding Determination*). Only matters that were disputed in Seller's Objection Notice and remain unresolved 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) 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, otherwise, 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 Final Closing 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: [***Note to Bidders: Sections in this Part 3 (Representations and Warranties of Seller) will be modified as necessary to address Seller entity (e.g., Seller is not a special purpose entity)***]

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 over the past six years 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) and identifies all non-transferable Facility Permits. 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, unless identified in Section 3.9.1 of the Seller Disclosure Schedule, 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, regarding 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 (in accordance with Prudent Utility Practices), 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 (in accordance with Prudent Utility Practices), 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 written 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 by Environmental Law or recommended by a Governmental Authority 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. Schedule 3.19.5 of the Seller Disclosure Schedule identifies all non-transferable Renewable Energy Incentives.

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 involve 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, "**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 severable minerals (including any evaluation as to the feasibility or likelihood of mineral extraction and any separate chain of title for severed minerals) prepared by Seller, Seller's Affiliates, a third party on behalf of Seller or Seller's Affiliates, or otherwise in Seller's possession, 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 or any other right, interest, or option under a Real Property Agreement, 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[, except for the Improvements identified in Schedule 3.14.1(i) of the Seller Disclosure Schedule that Seller represents and warrants that Seller has a valid leasehold or other right to use in accordance with a Real Property Agreement].**[*Note to Bidders: Placeholder language to be included if applicable.*]**

3.12.5. No Sublease. Excluding those rights granted to GPC under Sections 5.2.2 (*GPC On-Site Representatives*) and 5.3.6 (*Transitional Matters*), 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 as currently operated by or on behalf of Seller in accordance with Prudent Utility Practices.

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. Subject to Section 5.17 (*Casualty Loss*), 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 ("**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 and identifies all non-transferable 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 in accordance with 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. Within the past six years, Seller has not been refused any material insurance concerning 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 concerning 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 concerning 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 concerning 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, to the extent applicable, 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 concerning the construction of the Facility; or (b) if applicable 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*). If 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 Facility 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 Facility 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. Except as set forth in Section 3.22 of the Seller Disclosure Schedule, 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 in accordance with any indemnification or similar agreement, under the terms of or otherwise regarding 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. Except as set forth in Section 3.28 of the Seller Disclosure Schedule, 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, the FCC 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 practicable following the date of this APA and in accordance with Section 5.1.4 (*Filings with Governmental Authorities Generally*) and Section 6.1.3(iii) (*Governmental Approvals; Consents*), 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 and in accordance with Section 5.1.4 and Section 6.1.3(iii). 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. Subject to the provisions of Section 5.1.4 and Section 6.1.3(iii), 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. The provisions of this Section 5.1.3 (*Communications*) are subject to the limitations set forth in Section 5.1.5 (*Limitations*), Section 6.1.3 (*Government Approvals; Consents*), and Section 6.1.3(vi) (*Burdensome Conditions*).

5.1.4. Filings with Governmental Authorities Generally. Each Party will, and will cause its Affiliates to take in accordance with Section 5.1.4 (*Filings with Governmental Authorities Generally*) and Section 6.1.3(iii) (*Governmental Approvals; Consents*), 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. The provisions of this Section 5.1.4 (*Filings with Governmental Authorities Generally*) are subject to the limitations set forth in Section 5.1.5 (*Limitations*), Section 6.1.3 (*Government Approvals; Consents*), and Section 6.1.3(vi) (*Burdensome Conditions*), **[*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 Seller Representatives or the 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. Subject to applicable regulatory restrictions, 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. Subject to applicable regulatory restrictions, 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, Permits and Contracts, or 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 the 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) other than borrowings made in the ordinary course of business consistent with past practice under existing lines of credit, 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 45 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 regarding 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 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 preceding sentence, each Party will pay filing fees required by any Governmental Authority as set forth in Section 6.1.3(v) (*Fee Responsibility*), and Seller will pay any additional filing fee required by any Governmental Authority regarding any Consents required to be obtained or made in accordance with 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 or Section 5.9.2, 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 effect, through the Closing Date and, subject to the last sentence of this Section 5.10 (*Insurance*), 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 must promptly notify GPC of any material claim made under any Facility Insurance Policy (or any replacement or renewal coverage) during the Interim Period. After the Closing Date, Seller's obligation to maintain insurance is limited to the Facility Insurance Policies that are not transferred to GPC under the APA and that are "claims made" insurance policies (as specified in Section 5.10 of the Seller Disclosure Schedule).

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 ("**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. [***Note to Bidders: Placeholder for language giving GPC the right to require performance testing at the Facility before 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 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 (*Update of Seller Disclosure Schedule*), 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 in accordance with 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 Bidders: 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 12 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 5.20.3 (*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 5.20.3 (*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, in each case 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, in each case 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 this Section 6.1.3.

(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 6.1.3(vi) (*Burdensome 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) Burdensome 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. Subject to Section 6.1.3(vi) (*Burdensome Conditions*) GPC will use commercially 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 in accordance with Section 6.1.3(iii)(e) (*Government Approvals; Consents*), 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 any Burdensome Condition; (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 before Closing, the Commission issues an Amended Commission Certificate that imposes a material qualification or any Burdensome Condition, 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 ("**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 in accordance with 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 expressly required under this APA, in each case, to consummate the transactions contemplated by this APA.

6.2.5. Facility Permits. All Facility Permits listed in Section 6.2.5 of the Seller Disclosure Schedule 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 listed in Section 6.2.6 of the Seller Disclosure Schedule 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 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, in its sole discretion, will have exclusive control of: (i) any income Tax audit, litigation, or other proceeding of or against 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 except solely to the extent the audit, litigation, or other proceeding involves a claim for which Seller must provide indemnity under Section 7.2 (*Seller Tax Indemnity*). However, Seller must keep GPC reasonably apprised of the developments of the audit, litigation, or proceeding and must 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 GPC.

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. [***Note to Bidders: This provision to be deleted and replaced with "Reserved" to the extent not applicable.***]

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 of the information. [***Note to Bidders: This provision to be deleted and replaced with "Reserved" to the extent not applicable.***]

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 underlying the claim giving rise to the indemnity (giving effect to any extensions or waivers of the applicable statutes of limitations). 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 timely complete the required maintenance; and

(xi) any Claim caused by, arising out of, or related to 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 regarding 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 in accordance with 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 **Cancellation 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 (*Confidentiality; Public Statements or Press Releases*), 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 (*Notice Contacts*) 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 11:59 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.

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. 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.

10.8.1. 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 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 ("**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.

10.15 Reliance on Representations and Warranties. Each Party is relying solely on the express representations and warranties set forth in this APA (including the related portions of the Seller Disclosure Schedule). No Party or any other Person has made any representation or warranty as to Seller, the Facility Assets, GPC, or this APA except as expressly set forth in this APA (including the related portions of the Seller Disclosure Schedule).

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
Seller Termination Payment Amount	$#SellerTerminationPaymentAmount
GPC Termination Payment Amount	$#GPCTerminationPaymentAmount
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: The Liquidated Damages table will be populated with the applicable delay liquidated damages stated in Attachment 2 (Delay Liquidated Damages Summary) of RFP Exhibit E (Summary of Fees, Costs, Security, and Deadlines).*]**

Table A-1.9 **Knowledge Person(s)**	
Seller Knowledge Person(s)	#Name, #Title #Name, #Title #Name, #Title #Name, #Title
GPC Knowledge Person(s)	#Name, #Title #Name, #Title #Name, #Title #Name, #Title

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 #BinNumber
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 APA'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** ("**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#** ("**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__ ("**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#** ("**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__ ("**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**");
- 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 ("**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# ("**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, ("**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
All-Source Capacity RFP for 2029 - 2031
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 21.18 (*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 POI 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 1.5 (*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 Agreement*).

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 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 (*Performance Guarantees; Testing and Commissioning*).

Capacity Test: The Capacity Test as described in Exhibit S (*Performance Guarantees; Testing and Commissioning*).

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, succession, 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 condition 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 (*GPC-Initiated Changes*).

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 (*Performance Guarantees; Testing and Commissioning*), 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 (*Performance Guarantees; Testing and Commissioning*).

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 Seller Affiliate, or any prior developer of the Project, to site, design, develop, engineer, procure, supply, construct, interconnect, permit, startup, commission, or test the Facility 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 Final Completion, including any amount owing under the Project Contracts to achieve 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 (*GPC Replacement 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 C (*Form of Assignment Agreement*) attached to this BTA.

Deemed PWA Compliance: As defined in Section 2.29.12 (*PWA Requirements*).

Defect or Defects: As defined in Section 14.1.2 (*EPC Contractor and Subcontractor Warranty*).

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 and Synchronization*).

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, which must contain terms consistent with Exhibit I (*EPC Contract*). [***Note to Bidders: If the EPC Contract is executed before BTA execution, it will be included as Exhibit I***].

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 generation 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 (*Subcontractor's Waiver and Release Upon Final Payment*); 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 (*Contractor's Waiver and Release Upon Final Payment*).

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 1.8.1(ix) (*Termination Before 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 11.1.7 (*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 2.29.12 (*PWA Requirements*).

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 (*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 (*GPC-Initiated Changes*).

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 Mechanical Completion Date: The guaranteed Mechanical Completion date specified in Exhibit A-1 (*Project Information*), subject to extension as provided in this BTA.

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 1.9 (*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 (*Interim Waiver and Release Upon Payment*); 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-2 (*Form of Subcontractor's Interim Waiver and Release Upon Payment*).

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 (*Preliminary Project Schedule*).

Milestone Completion Dates: As defined in Section 8.1 (*Preliminary 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) #OtherRelevantTitleIssues **[*Note to Bidders: Placeholder for other relevant title issues*]**.

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 Information*).

Party or **Parties:** Either GPC or Seller or both.

Performance Guarantee: Each of the Performance Guarantees described in Exhibit S (*Performance Guarantees; Testing and Commissioning*).

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 (*Performance Guarantees; Testing and Commissioning*).

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-Construction 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 2.29 (*Tax Benefits*), Section 2.28 (*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: As defined in Exhibit Y (*PWA Requirements*).

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) (*Project Contracts*) and Schedule 2.10(i) (*Real Property Agreements*).

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 (*Preliminary 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: As defined in Exhibit Y (*PWA Requirements*).

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 1.6.6(viii) (*Closing Deliveries*).

Real Property Survey: The as-built ALTA Survey of the Project Site and the Project Improvements on the Project Site that is (i) dated within 30 days before the Closing Date; (ii) certified to the Title Company and GPC; (iii) in form and substance reasonably satisfactory to GPC and the Title Company; and (iv) 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 applicable 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 2.25 (*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-3 (*Technical Specifications Information*).

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 1.6.6(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 2.29 (*Tax Benefits*), Section 2.28 (*Taxes*), Section 2.17 (*Environmental Matters*), Section 2.19 (*Brokers*), Section 2.27 (*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, or condition (financial or otherwise) 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 A-1.5 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 1.9 (*Grid Improvements*).

Warranty: As defined in Section 14.1.2 (*Warranties*).

Warranty Period: As defined in Section 14.4.1 (*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 All-Source Capacity RFP for 2029 - 2031 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 must 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.

1.1.2. 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 must 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 Seller Affiliate 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 (*GPC-Initiated Changes*).

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 (*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 1.5.1(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 1.5.1(ii) (*Certificate Conditions*), if at any time before Closing, 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 1.5.1(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 1.5.1(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 1.5.1(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 (*Seller Representations, Warranties, and Covenants*), 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 1.6.1 (*Representations and Warranties*) and 1.6.2 (*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 each tax credit or other benefit (or, in each case, any payment or deemed refund in lieu thereof), for the Project that is identified on Schedule 1.6.14.

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 an FME causes a delay in development or construction of the Project that will last longer than the Outside Closing Date;

(vii) 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;

(viii) 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(viii) 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;

(ix) 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);

(x) 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); and

(xi) 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.

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 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), (ii), (vi), or (vii) then neither Party will have any Liability to the other with respect to termination.

1.8.4. Early Termination Fee. If GPC terminates this BTA under Section 1.8.1 (*Termination Before Closing Date*) because of a Seller breach 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).

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*), or 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. 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. Alternatively, in the event of early termination of this BTA before Closing, GPC may draw upon the Upgrade Security, subject to repayment in accordance with any applicable OATT.

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 2.28 (*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 2.28 (*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(ii) 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 2.14.1 (*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 2.25 (*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. Tax Returns. 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. No Pending or Threatened Claim or Other Action. 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. No Extended Limitations Period. 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. Tax Withholding and Payment. 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 Claim by Taxing Authority. 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 or Tax Ruling. 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. Foreign Person. 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. No Action. 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 Grant or Rebate. 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 Governmental Project Financing. 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. No Tax Benefit Impairment. 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. Project Not Placed In Service. 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. No Original Use. 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. No Deduction Claim by Seller. 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 Qualified Rehabilitation Expenditures. 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 Grant or Rebate Benefit. 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. No Tax-Exempt Property. 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. Project Location. The Project is located entirely within the state of Georgia.

2.29.9. No Adverse Effect. 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. No Preferential or Special Tax Assessment. 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. GPC Entitled to Tax Benefits. 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. PWA Requirements. 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 (*PWA Requirements*); 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 Exhibit Y (*PWA Requirements*). 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 2.29.12 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 Post-Construction 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 or a Letter of Credit, a Material Credit Change occurs concerning Seller Guarantor or issuer of a Letter of Credit, 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; (ii) in the form of a Seller Guaranty from a Person that is Creditworthy; or (iii) in the form of a Letter of Credit.

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 (*Notice Contacts*).

PART 5 COVENANTS OF THE PARTIES

Pre-Closing Covenants of the Parties. After the Effective Date and before the Closing:

5.1 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.

5.2 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 provide reasonable prior written notice to Seller and will comply with Seller's and EPC Contractor's, as applicable, policies and procedures regarding safety and security while on the Project Site.

5.3 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.

5.4 Failure to Act. Subject to Section 5.5 (*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.

5.5 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.

5.6 Post-Closing Covenants.

5.6.1. General Cooperation. After 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.

5.6.2. 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.

5.6.3. 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.

5.6.4. No Amendment to Project Contracts. Until Final Completion, GPC will not: (i) amend or modify any Project Contract, including by entering into any change orders; or (ii) assign or transfer any Project Contract, in each case without Seller's prior written consent, not to be unreasonably withheld. The rights provided to Seller under this Section 5.6 (*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.

5.7 General Covenants of Seller

5.7.1. 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.

5.7.2. 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 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; or

(xvii) commit or agree to do any of the preceding.

5.7.3. 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 before 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.

5.8 General Covenants of GPC. GPC will submit the executed BTA for Commission approval in accordance with Section 1.5 (*Regulatory Matters*).

5.9 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 Parties 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, which will not be unreasonably withheld, conditioned, or delayed.

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 (*Subcontractors Pre-Approved by GPC*) 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, before 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 must 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 must, and must 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, 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 requirement of any applicable Governmental Authority or otherwise as promptly as commercially practicable. Seller must review all updates to, and any new, Required BMPs on a regular basis 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 follow applicable safety protocols and 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 or the date on 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 Project meetings (whether conducted in-person, telephonically or through similar medium) that are attended by Seller and EPC Contractor or Major Subcontractors and relate 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 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 must 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 cause the EPC Contractor to perform additional work for the Project under the EPC Contract, in which case Seller and its Affiliate must reasonably cooperate by providing pricing and schedule impacts of any proposed GPC-Initiated Change relating to the EPC Contract. 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) must be prepared and submitted in accordance with: (a) the Technical Specifications; (b) Exhibit Q (*Seller Deliverables Table*); and (c) the "Document Submittal Specifications" in Exhibit P (*Additional Compliance Requirements*); and (ii) when completed, must 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 must 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 that, 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 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 issuing the Full Notice to Proceed, the EPC Contractor's health and safety plan for the Project will be amended to this BTA as Exhibit M (*Project Safety Assurance Plan*) (the "**Project Safety Assurance Program**"), if not agreed before the Effective Date. Before the start of, and throughout the performance of, the Work, Seller must 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 Before 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 with respect to the Project Assets 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 must 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 Seller must maintain 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 must (i) obtain from those Persons who prepared the Reports described on Schedule 6.24.3, and (ii) 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 that 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 must provide GPC with an update to any Monthly Progress Report upon GPC's request. Until the submission of the next Monthly Progress Report, Seller must 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 must, 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 (*Interim Waiver and Release Upon Payment*) 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 Subcontractor's Interim Waiver and Release Upon Payment*) 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 Subcontractor's Waiver and Release Upon Final Payment*).

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 Contractor's Waiver and Release Upon Final Payment*); and (ii) Final Lien Waivers from all Subcontractor(s) (other than suppliers of Project Equipment) in the form of Exhibit F-4 (*Form of Subcontractor's Waiver and Release Upon Final Payment*).

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 must 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 before 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**"), attached to this BTA as Exhibit Z (*EH&S Specifications*).

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 1.8.1(iv) (*Termination Before 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 1.6 (*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. No Action to Jeopardize Tax Benefits. 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. Accurate Begun Construction Certificate. 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. Project In Service. Subject to the requirements of Section 12.3 (*No Energization and Synchronization*), 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

[1] GPC to discuss providing replacement security after the Closing if GPC has post-Closing payment obligations.

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 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 punch list 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 (*GPC-Initiated Changes*).

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 Guaranteed Mechanical Completion 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 9.2.9 (*Seller Error and Failure to Plan and Perform No Cause for Change Order*), Seller will be entitled to a Change Order: (i) increasing the Purchase 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 accepted by GPC: (a) subject to Section 9.2.5 (*Adjustments to Purchase Price*) and Section

11.1.6 (*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) subject to Section 11.1.6, 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: (i) a Change in Law exceed an amount equal to the quotient of 20% of the Purchase Price divided by the number of years of the Facility design life; and (ii) all other events and circumstances that entitle Seller to a Change Order increasing the Purchase Price exceed 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 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 (unless the subject of an approved Seller-Initiated Change), 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.

9.2.10. 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; (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, so long as the Change is generally consistent with the Work. Seller must comply with any Change Order Directive, and the Parties will proceed under the dispute resolution process described in this BTA to resolve their disagreement.

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 (*Performance Guarantees; Testing and Commissioning*), 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 must deliver to GPC a supplement to Exhibit S (*Performance Guarantees; Testing and Commissioning*) 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 (*Performance Guarantees; Testing and Commissioning*), 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 must provide all applicable 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 must 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 11.1.4 (*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 11.1.3 (*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 11.1.3 (*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 11.1.5 (*Burden of Proof and Supporting Documentation*) and 11.1.7 (*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 11.1.5 (*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 (*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 11.1.7 (*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 (*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, 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. If GPC fails to accept or reject the Mechanical Completion Certificate within five Business Days, then, without waiver of GPC's right to require the correction of defects or deficiencies in the Work, the Mechanical Completion Certificate will be deemed accepted.

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 occurred on the date set forth in the Substantial Completion Certificate. If GPC fails to accept or reject the Substantial Completion Certificate within five Business Days, then, without waiver of GPC's right to require the correction of defects or deficiencies in the Work, the Substantial Completion Certificate will be deemed accepted.

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 must 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 occurred on the date set forth in the Final Completion Certificate. If GPC fails to accept or reject the Final Completion Certificate within five Business Days, then, without waiver of GPC's right to require the correction of defects or deficiencies in the Work, the Final Completion Certificate will be deemed accepted.

12.6.3. Resubmission of Final Completion Certificate. If GPC rejects a Final 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 remedial work and Seller's belief that it has satisfied the requirements for Final Completion, Seller must 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 Guaranteed Mechanical Completion 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 must 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 must, within the time detailed in the Project Schedule or elsewhere in this BTA, including Exhibit Q (*Seller 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; 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 and explains the basis for its opinion that the drawing does not conform with the BTA. Seller must 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 must 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, (each, a "**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 error 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. **[*Note to Bidders: This extended warranty provision will be updated as appropriate for differences in Facility technology and the specifics of Bidders offer, subject to compliance with GPC's minimum technical requirements*]**. 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 must 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 before the EPC Contract or Major Supply Agreement, as applicable, is assigned to GPC, 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 must: (a) cure the failure, or cause the failure to be cured, in accordance with the Warranty or Gap Warranty, to remedy the Defect and any resulting property damage resulting from the Defect 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 must 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 Seller does not commence, or cause the commencement of, the Warranty

service within five Business Days after receipt of notice from GPC under Section 14.5 (*Repair of Defects*), 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 must, or must 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 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 Guaranteed Mechanical Completion 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 continuously and 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 other Transaction Document, in addition to any other right 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 must indemnify and hold harmless GPC from and against any costs incurred by GPC to exercise its right under this Section 15.3.1.

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, GPC will have the right to terminate this BTA 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 1.9 (*Grid Improvements*).

16.2 Termination by Seller. Upon the occurrence and continuation of a GPC Default, Seller will have the right to terminate this BTA 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 before 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, 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 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, 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 before, 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 must 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 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 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 before 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. A GPC Indemnified Party will promptly notify Seller of any Claim or proceeding in respect of which the GPC Indemnified Party 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 must assume the defense of the GPC Indemnified Party against 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 the 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 to the extent a remedy is not specified for the applicable breach.

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, the 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 GPC.

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, and this Part 18 will be treated for all purposes of this BTA as arising solely under this Part 18.

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 1.8.4 (*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 (*Notice Contacts*) 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 21.4 (*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 21.5 (*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, and Covenants*), 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 21.12 (*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 Before 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 - PROJECT DESCRIPTION AND ADDITIONAL INFORMATION

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 Mechanical Completion Date	#Month #Day, #Year
Guaranteed Substantial Completion Date	#Month #Day, #Year

Table A-1.3 Financial Information	
Base Purchase Price Cash Amount	$#BasePurchasePriceAmount

Table A-1.3 **Financial Information**	
Termination Payment Amount	$#TerminationPaymentSchedule
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 Eligible Collateral for Performance Security and Upgrade Security in accordance with BTA Sections 4.6 (*Delivery of Eligible Collateral for Performance Security*) and 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 2029 – 2031 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#

By: _____

#LandlordSignatureName#

#LandlordSignatureTitle#

Date: _____

#TenantLegalName#

By: _____

#TenantSignatureName#

#TenantSignatureTitle#

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. #AdditionalEndorsements#

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:

_____
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-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 GPC 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 All-Source Capacity Request For Proposals 2029 – 2031 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 this Exhibit G-1). 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 All-Source Capacity RFP for 2029 - 2031, 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 All-Source Capacity RFP for 2029 – 2031, 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 All-Source Capacity RFP for 2029 – 2031, 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 All-Source Capacity RFP for 2029 – 2031, 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 All-Source Capacity RFP for 2029 - 2031, 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 All-Source Capacity RFP for 2029 - 2031, 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 – GPC COMPLIANCE REQUIREMENTS

[Note to Bidder: Please see the pdf document titled "GPC Compliance Requirements" available on the IE Website.]

For purposes of the GPC 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 3. PERFORMANCE GUARANTEES

3.1. 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***].

3.1.1. 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.

3.1.2. 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.

3.1.3. 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.

3.1.4. 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.

3.1.5. 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.***]

3.1.6. 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.

3.1.7. 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.

3.1.8. 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.

3.2. 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.

3.3. 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.***]

3.3.1. Useable Energy Capacity Guarantee Liquidated Damages. $TBD/MWh shortfall.

3.3.2. Rated Duration Guarantee Liquidated Damages. $TBD/hr shortfall.

3.3.3. Auxiliary Power Guarantee Liquidated Damages. $TBD/kW shortfall.

3.3.4. Round-Trip Efficiency Guarantee Liquidated Damages. $TBD/MW shortfall.

PART 4. 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:

1.1 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. Any reference to "Owner" means "GPC" and "Contractor" means Seller.

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.

1.2.3 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.

1.2.4 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.

1.2.5 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 Million Dollars ($5,000,000)** each claim.

1.2.6 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.

1.2.7 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:

(i) 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.

(ii) To provide a severability of interest and cross liability clause on all policies required herein except for workers comp and professional liability.

(iii) All required insurance must be primary and not excess to or contributing with any insurance or self-insurance maintained by Owner.

(iv) 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.

(v) 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.

(vi) 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 Owner, and all GPC Indemnified Parties, 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 ("**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 Attachment A 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: _____

Attachment 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 and Progress Meetings*).

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 (*Performance Guarantees; Testing and Commissioning*) 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 (*Performance Guarantees; Testing and Commissioning*) 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-3 (*Technical Specifications*), the commissioning and test procedures and protocols of Exhibit S (*Performance Guarantees; Commissioning and Testing*) 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 (*Performance Guarantees; Commissioning and Testing*) in Performance Tests conducted in accordance with this BTA, including the Performance Test Procedures and Exhibit S.
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

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 Substantial Completion 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.

EXHIBIT Z – EH&S SPECIFICATIONS

[Note to Bidders: This Exhibit will be the E&HS Procedures available at https://www.southerncompany.com/content/dam/southerncompany/pdfs/about/suppliers/technical-projects-solutions-/construction_ehs_manual.pdf]