2026

Georgia Power

Power Purchase Agreement for Biomass Generation at International Paper – Port Wentworth Mill between Georgia Power Company and International Paper Company

[Insert Execution Date]

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Power Purchase Agreement for Biomass Generation at International Paper – Port Wentworth Mill between Georgia Power Company and International Paper Company

Georgia Power Company, a Georgia corporation ("**GPC**"), and **International Paper Company**, a New York corporation ("**Generator**"), enter into this **Power Purchase Agreement for Biomass Generation** (**"PPA"**) as of the Effective Date. GPC and Generator acknowledge:

- On March 5, 2014, the Parties entered into a Contract for the Purchase of Firm Capacity and Energy from a Renewable Qualifying Facility Utilizing the Proxy Unit Methodology from the Port Wentworth electric generating plant, with a contracted capacity of 25.2MW, as revised, which plant continues in operation under that contract (the "**Existing Electric Generating Plant**");
- Generator desires to sell, and GPC desires to purchase, all of the energy and Ancillary Services generated by or associated with the Nominal Capability added by the Project to the Existing Electric Generating Plant consistent with GPC's 2023 Request for Proposals for Up to 140 MW of New Biomass Generation ("**2023 Biomass RFP**") and the Georgia Public Service Commission's Orders in Docket Nos. 44160, 44161, and 44880;
- The Parties desire to set forth the terms and conditions upon which the sale and purchase of energy and Ancillary Services, as well as the sale and purchase of Excess Energy and related Ancillary Services, may be conducted between the Parties; and
- The Facility will be interconnected to and operated in parallel with the Electric System.

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. SCHEDULE OF DEFINED TERMS AND RULES OF CONSTRUCTION

This PPA uses the defined terms identified here, or in the preamble or body of this PPA, and the rules of construction set forth in Section 21.14 (*Agreement Interpretation*).

2023 Biomass RFP: GPC's 2023 Request for Proposals for Up to 140 MW of New Biomass Generation.

Affiliate: For any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control of the specified Person. For purposes of this definition, "control" means the power to direct the management and policies of a Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. It is assumed for purposes of this PPA that the direct or indirect owner of 50% or more of the outstanding stock or other equity interest of a Person has "control" of the Person. The terms "controlling" and "controlled" have meanings correlative to the foregoing.

After-Tax Basis: With respect to any payment received or deemed to have been received by any Person, the amount of such payment (the "**base payment**") supplemented by a further payment (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 in respect of 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 thereof), be equal to the amount required to be received. The calculations contemplated in the previous sentence 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.

AIER: The Associated Interchange Energy Rate, which, as determined for each Hour, is based on the variable dispatch cost of the incremental resources that serve the collective obligations of the Southern Companies.

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

Air Permit Threshold Date: August 2, 2026.

AAA: The American Arbitration Association.

Ancillary Services: All commercial products other than electrical output that are produced by or related to the Delivered Energy (including Excess Energy) or Contracted Capacity, Electrical Products, Environmental Attributes, and any other environmental or regulatory credits or allowances, in each case resulting from the Contracted Capacity or operation of the Facility, to produce the Delivered Energy, and any other benefit GPC otherwise would have realized from or related to the production of the Delivered Energy if GPC rather than Generator had constructed, owned, or operated the Facility, it being the Parties' intent that all such 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 during the Term, belong to GPC at no additional cost to GPC. However, if a commercial product is not produced by the Facility, Generator will not be required to acquire the commercial product in the market to comply with this PPA. For the avoidance of doubt, Ancillary Services do not include: (i) any federal, state, or local tax attributes arising from the ownership of the Facility, including 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 thereof; or (iii) the metered electric energy produced by the Facility.

Annual Period: Any one of a succession of consecutive 12-Month periods during the Term of this PPA, the first of which will begin on the first Day of the Month following the Delivery Commencement Date; except that, if the Delivery Commencement Date is on the first Day of the Month, the first Day of the first Annual Period will be the Delivery Commencement Date.

ASC: Accounting Standards Codification.

Availability Percentage: Has the meaning assigned in Section 17.1.8 (*Unsatisfactory Availability Percentage*).

Biomass: Biomass material as defined in O.C.G.A. Section 48-8-3(83)(B) and as more fully described in **Exhibit E** (*Facility Description and Site*)**,** that does not include Excluded Material and complies with the limitations on the use of natural gas set forth in PPA Section 12.1 (*Fuel Supply*).

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

Change of Control Transaction: Any transaction or series of related transactions which, if consummated, would result in Generator 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 Generator's outstanding capital stock or other equity interests having ordinary voting power and who does not itself have an ultimate parent entity.

Change of Law: A Legal Requirement enacted after the Effective Date that requires Generator to install additional or different equipment at the Facility or otherwise modify the Facility to comply with the Legal Requirement.

Change of Law Capital Expenditures: Additional capital expenditures (determined under GAAP) reasonably and actually incurred by Generator under Prudent Industry Practices after the Delivery Commencement Date 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; except that capital expenditures will not constitute Change of Law Capital Expenditures unless GPC, using Prudent Industry Practices, would incur capital expenditures regarding its own generation facilities of the type as the Facility as a result of the requirements of the Change of Law (taking into account differences in facility generating capacity and the frequency and duration of facility dispatch). Change of Law Capital Expenditures will be appropriately pro-rated based on; (i) the remaining Term divided by the useful life of the applicable capital addition or modification; and (ii) the Designated Capacity divided by the total Facility generating capability, if applicable. Change of Law Capital Expenditures will be net of any cost savings reasonably available to Generator resulting from the capital addition or modification.

Commercial Operation: Has the meaning assigned in Section 8.1.1 (*Commercial Operation*).

Commercial Operation Date: The date on which the Project (and the Facility) achieves Commercial Operation.

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

Commission Certificate: A Certificate of Public Convenience and Necessity granted by the Commission approving this PPA under Section 2.3.2 (*Commission Certificate*).

Confidential Information: Business or technical information rightfully in the possession of either Party, which information derives actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by Persons who can obtain economic value from its disclosure and use, and includes information furnished or disclosed to the other Party in connection with discussions leading up to execution of this PPA, including this PPA. Confidential Information must be designated in writing as confidential by the Party supplying the information (the "**Disclosing Party**," the other Party being the "**Receiving Party**"). Confidential Information does not include information that: (i) is or becomes publicly available other than as a result of a violation of this PPA; (ii) was, when disclosed, 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 by 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 must disclose under Legal Requirements.

Consent: Any approval, consent, authorization, or other applicable requirement that is required regarding the Project or Facility from any jurisdictional Governmental Authority, including all applicable environmental certificates, licenses, permits and approvals.

Contracted Capacity: The capacity range of the Facility (in MW) being made available to GPC under this PPA, as specified in **Exhibit A** Section A.1 (*Contracted Capacity Cap; Contracted Capacity Range*).

Contracted Capacity Cap: 102.5% of the Nominal Capability of the Facility except as otherwise determined in **Exhibit A** Section A.1 (*Contracted Capacity Cap; Contracted Capacity Range*).

Creditworthy: A Person (i) rated by at least two of the three Rating Agencies, with an investment grade rating from each of the Rating Agencies that have rated the Person 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.

Day: A calendar day.

Defaulting Party: Has the meaning assigned in Section 17.3.1 (*Non-Defaulting Party Remedies*).

Delivered Energy (DE): The amount of energy delivered from the Facility each hour to the POI in MWh as provided in **Exhibit B** (*Energy Payment Calculation*).

Delivery Commencement Date: The Commercial Operation Date; except that the Delivery Commencement Date may not be more than nine Months before the RCOD. For the avoidance of doubt, if Commercial Operation occurs more than nine Months before the RCOD, the Delivery Commencement Date will be nine Months before RCOD.

Demand: Has the meaning assigned in Section 20.2.3 (*Arbitration*).

Designated Capacity: Has the meaning assigned in, and is determined under, **Exhibit A** Section A.3 (*Designated Capacity*).

Early Termination Date: Has the meaning assigned in Section 17.3.1 (*Non-Defaulting Party Remedies*).

Effective Date: 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. For the avoidance of doubt, Electrical Products do not include: (i) any federal, state, or local tax attributes arising from the ownership of the Facility, including 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 thereof; 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 Generator, or (iii) a Generator Guaranty; except that 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 Generator Guarantor supplying a Generator Guaranty under this PPA has an investment grade rating such that its senior unsecured debt (or issuer rating if the 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 the 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 the Person has no senior unsecured debt rating) as set forth above from at least two of the three Rating Agencies.

Energy Price: Has the meaning assigned in **Exhibit B** (*Energy Payment Calculation*).

Environmental Attributes: Either: (i) any and all fuel-related, emissions-related, air quality-related, or other environmental-related aspects, claims, characteristics, benefits, credits, 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, renewable energy credits, and CO2 credits, and all of those that otherwise arise or result from the generation of energy from the Facility, and all of 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 during the Term, and (c) whether such Environmental Attributes have been certified or verified under any renewable standard, or (ii) any environmental benefit GPC otherwise would have realized from or related to the Delivered Energy (including Excess Energy) or Contracted Capacity, from the Facility if GPC rather than Generator had constructed, owned, or operated the Facility; except that any environmental benefit could be realized by Generator. Environmental Attributes include any Environmental Attributes 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, licensing requirement, verification or certification procedure, federal contract, or other environmental program, incentive mandate, or objective, in each case whether voluntary or mandatory, and whether created by a Legal Requirement, or by any Governmental Authority, partnership, coalition, advisory committee, or independent certification board, group, or scientific panel. Environmental Attributes include the exclusive right to report the Environmental Attributes to any Governmental Authority or other Person. Environmental Attributes do not include: (w) any federal, state, or local tax attributes arising from the ownership of the Facility, including depreciation deductions; (x) grants in lieu of investment tax credits or any similar financial payment or grant regarding the Facility or the metered electric energy output thereof; or (y) the metered electric energy produced by the Facility.

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

Event of Default: Has the meaning assigned in Section 17.1 (*Default by Generator*) for Generator and in Section 17.2 (*Default by GPC*) for GPC.

Excess Energy: Has the meaning assigned in and is determined pursuant to Exhibit B (*Energy Payment Calculation*).

Excluded Capacity: Has the meaning assigned in, and is determined pursuant to, Section 10.1 (*Excluded Capacity; Tested Reliable Capacity and Designated Capacity of the Facility*). The value of the Excluded Capacity is stated after its determination in **Attachment 1 to Exhibit B** (*Excluded Capacity*) of this PPA. The Contracted Capacity does not include the Excluded Capacity and this PPA does not apply to the sale and purchase of energy and Ancillary Services produced by the Facility that correspond to the Excluded Capacity.

Excluded Material: Any material that is not free of debris, foreign material, and contaminants. Examples of contaminants or unacceptable materials include: railroad ties, tires, metals (e.g., nails, screws or chains), rocks or large soil particles, waste oil, farm chemicals, contaminated soil, demolition waste (other than untreated, unstained, and unpainted clean wood), treated wood, contaminated feedstock, and paints, solvents, and other preservative chemicals.

Existing Electric Generating Plant: Has the meaning assigned in the preamble of the PPA.

Existing Qualifying Federal Support: Any direct federal financial support to the Facility in the form of tax benefits or direct financial benefits expressly intended to incentivize the development and operation of energy infrastructure (including electrical transmission, storage, generation, or the production of fuels from electrical energy) that arises from any existing law or law enacted by the U.S. Congress prior to the Effective Date. Qualifying Federal Support will not include ordinary course tax deductions or federal research and development grants that are awarded

competitively. The incremental value (as compared to a market-rate loan) of any federal loan or federal loan guarantee from the U.S. Department of Energy's Loan Program Office (whether or not it arises from a law enacted by the U.S. Congress before or after the Effective Date) will be considered Existing Qualifying Federal Support. Existing Qualifying Federal Support will not include any Existing Qualifying Federal Support relied upon by Generator in determining the Energy Price, other than to determine the Generator's representations and warranties in Section 3.1.10 (*Existing Qualifying Federal Support*).

Existing Qualifying Federal Support Amount: The total economic value realized by Generator or any Affiliate from Existing Qualifying Federal Support or the monetization thereof. Subject to the foregoing, the Existing Qualifying Federal Support Amount will include, without limitation or duplication: (i) any reduction in tax liability realized by Generator or an Affiliate in connection with Existing Qualifying Federal Support; (ii) any amounts received directly from the U.S. government in connection with Existing Qualifying Federal Support; (iii) any excess economic value realized by Generator or an Affiliate in any tax equity financing or other transaction the primary purpose of which is for a party to realize the value of Existing Qualifying Federal Support and in which the Existing Qualifying Federal Support is exchanged for economic value (relative to a scenario with no Existing Qualifying Federal Support) and includes any leasing transaction (including a sale-leaseback, inverted lease or the like) that has the result of the foregoing; (iv) any reduction in procurement, equipment supply, or other direct costs related to the Facility and realized by Generator or an Affiliate as a result of the Existing Qualifying Federal Support; and (v) the incremental value (as compared to a market-rate loan) of any federal loan or loan guarantee.

Facility: The electric generating plant as described in **Exhibit E** (*Facility Description and Site*) that uses Biomass as its fuel for the production of electricity and is interconnected to the Transmission System at the POI, as such electric generating plant exists and is modified by the completed Project to add the Nominal Capability, including all auxiliary equipment and facilities installed on Generator's side of the POI at the Site necessary or used for the production, control, delivery, or monitoring of electricity produced on the Site.

Facility NOx Allowances: NOx Allowances that are available to or for the Facility, or that are otherwise granted to Generator for the Facility by any Governmental Authority or pursuant to any Legal Requirement or Consent, including through any type of state or federal set-aside program, for the calendar years covered, in whole or in part, by the Annual Periods.

Facility SO2 Allowances: SO2 Allowances that are available to or for the Facility or that are otherwise granted to Generator for the Facility, by any Governmental Authority or pursuant to any Legal Requirement or Consent, including through any type of state or federal set-aside program, for the calendar years covered, in whole or in part, by the Annual Periods.

FASB: The Financial Accounting Standards Board.

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

FERC: The Federal Energy Regulatory Commission or any Governmental Authority succeeding to the powers and functions thereof under the Federal Power Act.

Finance Lease: Has the meaning as set forth in the ASC Topic 842, Leases, as issued and modified by FASB.

Fitch: Fitch Ratings Ltd. or its successor.

Force Majeure Event: Any occurrence, non-occurrence, or set of circumstances that is beyond the reasonable control of a Party, is not reasonably foreseeable, and is not caused by the Party's negligence, inaction, lack of due diligence, breach of this PPA, or failure to follow Prudent Industry Practices. The term Force Majeure Event will not include: (i) the inability to meet a Legal Requirement or the change in a Legal Requirement; (ii) a site-specific strike, walkout, lockout, or other labor dispute at the Facility; (iii) equipment failure or equipment damage in the case of the Facility or any failure of Generator's contractors, suppliers, or vendors, unless such failure or damage results directly from an event that would otherwise constitute a Force Majeure Event hereunder; (iv) change in market conditions that affects the cost or availability of equipment, materials, supplies or services, including the Facility's fuel supply or the cost of power from resources other than the Facility, unless such change in cost or availability results directly from an event that would otherwise constitute a Force Majeure Event as defined in this PPA; (v) any inability by GPC to receive energy at the POI, if the inability is not caused by Generator's actions or inactions; (vi) failures of a Party's contractors, suppliers, or vendors, unless the failure is caused by an event that would otherwise constitute a Force Majeure Event; (vii) ambient temperature and humidity at the Site being different than Referenced Conditions; (viii) any event, including a change in any Legal Requirement or accounting standard, that requires GPC to consolidate Generator or any of its Affiliates or permitted assigns as a VIE in GPC's financial statements; (ix) any inability to obtain or maintain, or delay in obtaining, any permit, approval, or other

consent required from a Governmental Authority, unless failure is caused by an event that would otherwise constitute a Force Majeure Event; or (x) failure or inability to retain sufficient funds for any reason, or Generator's loss of or inability to obtain or retain any tax credits or other incentives with respect to any portion of the Facility.

Forced Derate: A time during which the generating capability of the Facility is reduced such that the Facility is not capable of generating the entire amount of energy corresponding to the Designated Capacity for reasons other than a Force Majeure Event, excluding a Forced Outage.

Forced Outage: A time during which the Facility is not capable of normal operations for reasons other than a Force Majeure Event and that is not a Scheduled Outage or a Maintenance Outage.

Future Qualifying Federal Support: Any direct federal financial support to the Facility in the form of tax benefits or direct financial benefits expressly intended to incentivize the development and operation of energy infrastructure (including electrical transmission, storage, generation, or the production of fuels from electrical energy) that arises from either (i) any law enacted by the U.S. Congress after the Effective Date or (ii) any additional guidance or new interpretation of the Internal Revenue Code after the Effective Date. Future Qualifying Federal Support will not include ordinary course tax deductions or federal research and development grants that are awarded competitively.

Future Qualifying Federal Support Amount: Fifty percent of the total economic value realized by Generator or any Affiliate from the Future Qualifying Federal Support or the monetization thereof, after deducting the reasonable and documented internal and third party costs directly incurred by Generator and not in the Generator's ordinary course of business to obtain such Future Qualifying Federal Support Amount. Subject to the foregoing, the Future Qualifying Federal Support Amount will include, without limitation or duplication: (i) any reduction in tax liability realized by Generator or an Affiliate in connection with Future Qualifying Federal Support; (ii) any amounts received directly from the U.S. government in connection with Future Qualifying Federal Support; (iii) any excess economic value realized by Generator or an Affiliate in any tax equity financing or other transaction the primary purpose of which is for a party to realize the value of Future Qualifying Federal Support and in which the Future Qualifying Federal Support is exchanged for economic value (relative to a scenario with no Future Qualifying Federal Support) and includes any leasing transaction (including a sale-leaseback, inverted lease or the like) that has the result of the foregoing; and (iv) any reduction in procurement, equipment supply, or other direct costs related to the Facility and realized by Generator or an Affiliate as a result of the Future Qualifying Federal Support.

GAAP: Generally accepted accounting principles, 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 revised afterwards, by the Bureau of Economic Analysis, United States Department of Commerce, Washington, D.C.

Generator Guarantor: A Person who, at the time of execution and delivery of its Generator Guaranty, is Creditworthy and is an Affiliate of Generator, derives direct or indirect benefit from the transaction contemplated by this PPA, and is otherwise an entity acceptable to GPC.

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

Generator Performance Security: Eligible Collateral required to be delivered by Generator to GPC in Section 7.1 (*Generator Performance Security*).

Georgia Integrated Transmission System: The integrated transmission system in Georgia that consists of electric transmission facilities (>40 kilovolts) that are individually owned and maintained by participating utilities who jointly plan and operate through agreements among Georgia Transmission Corporation, GPC, Municipal Electric Authority of Georgia (MEAG Power), and Dalton Utilities.

GHG Charges: Any Taxes imposed on the Facility or Generator by a Governmental Authority under a New GHG Law for Greenhouse Gas emitted by and attributable to the Delivered Energy of the Facility after the Delivery Commencement Date and before the end of the Term.

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

Governmental Approvals: Any and 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 under Legal Requirements.

Governmental Authority: Any local, state, regional, or federal administrative, legal, judicial, or executive agency, court, commission, department, or other such entity, but excluding any agency, court, commission, department, or other such entity acting in a capacity as lender, guarantor, or mortgagee.

GPC Election Notice: Has the meaning assigned in Section 18.2.3 (*GPC Election Notice*).

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

Greenhouse Gas (GHG): Carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_20), sulfur hexafluoride (SF_6), ozone (O3), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), any gas that absorbs and emits radiant energy within the thermal infrared range, and any other gases or emissions classified by a Governmental Authority as contributing to the greenhouse effect.

Indebtedness: All of the following regarding any Person, 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 or applications or reimbursement agreements therefor; (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 or acquire or to otherwise protect or insure a creditor against loss in respect of indebtedness of any other Person excluding endorsements of negotiable instruments for deposit or collection in the ordinary course of business.

Indemnified Party: Has the meaning assigned in Section 15.1 (*Scope of Indemnity*).

Initial Synchronization Date: The date that includes the first instant in time when energy generated by the Facility is delivered to the POI under the Interconnection Agreement.

Interconnection Agreement: The Interconnection Agreement entered into or to be entered into by and between Generator and Southern Company Transmission that provides for the construction and operation of the Interconnection Facilities and governs the interconnection and parallel operation of the Facility with the Transmission System.

Interconnection Facilities: Those facilities described in the Interconnection Agreement as facilities that must be installed or modified to enable the Facility to deliver the energy associated with the Contracted Capacity from the Facility to the Transmission System.

Interconnection Study Agreement: An agreement between Generator and the Facility's Transmission Provider in which the Transmission Provider agrees to study the Facility's potential impacts on the grid in the vicinity of the proposed POI and determine the necessary Interconnection Facilities and related estimated costs and the schedule of construction.

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.

kW: Kilowatt(s).

Legal Requirement: Any law, code, statute, regulation, rule, ordinance, permit, judgment, injunction, order, Consent, or other requirement of a Governmental Authority having jurisdiction over the matter in question that is valid and applicable to the matter in question at the time of the execution of this PPA or any time afterwards during the Term. As used in this PPA, "applicable law" has the same meaning as Legal Requirement.

Letter of Credit: An irrevocable standby letter of credit, substantially in the form attached hereto as **Exhibit F** (*Form of Standby Letter of Credit*) that (i) is issued by a U.S. commercial bank or the U.S. branch of a foreign bank with total assets of at least ten billion dollars ($10,000,000,000) 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 (ii) is otherwise acceptable to GPC in GPC's sole discretion.

Losses: Has the meaning assigned in Section 17.3.3 (*Determination of Losses and Costs*).

Maintenance Outage: A planned interruption of a portion or all of the Facility's generation capability that: (i) has been coordinated in advance with GPC with a mutually agreed start date, time, and duration or to which GPC has consented under Section 11.2.2 (*Maintenance Outages*); and (ii) is for the purpose of performing work on specific components of the Facility that would limit the power output of the Facility but should not, in the reasonable judgment of Generator, be postponed until the next Scheduled Outage.

Maintenance Schedules: Has the meaning assigned in Section 11.2.1 (*Maintenance Schedules*).

Material Adverse Change: The occurrence of either of the events described in the following clauses (i) or (ii) regarding Generator or any Generator Guarantor: (i) such Person becomes no longer Creditworthy or (ii) the maturity of any of the Person's Indebtedness that in the aggregate exceeds one hundred fifty million dollars ($150,000,000) or 5% of the Person's equity, whichever is less, is accelerated by the holder or holders thereof as a result of a default thereunder.

Metering System: All meters, metering devices, and related instruments used to measure and record electric energy and to determine the amount of the electric energy delivered to GPC at the POI and for the other purposes set forth in Section 9.2 (*Meters*).

Milestone Schedule: A schedule containing at a minimum all significant milestones related to the design, engineering, procurement, and construction of the Project and the Initial Synchronization Date (if applicable), testing, startup, and Commercial Operation Date of the Facility required to be provided by Generator in Section 8.1.2 (*Milestone Schedule*).

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

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

Monthly Delivered Energy (MDE): Has the meaning assigned in **Exhibit B** (*Energy Payment Calculation*).

Monthly Energy Payment (**MEP**)**:** The amount to be paid by GPC to Generator for GPC's purchase of energy and Ancillary Services for a particular Month, as provided in Section 5.2 (*Calculation of Monthly Energy Payments*) and determined under **Exhibit B** (*Energy Payment Calculation*).

Monthly Excess Energy: Has the meaning assigned in **Exhibit B** (*Energy Payment Calculation*).

Monthly Hours (**MH**)**:** Has the meaning assigned in **Exhibit A** (*Capacity; Availability*).

Monthly Invoice: A written invoice from Generator to GPA in accordance with Section 6.1.1 (*Monthly Invoice*) stating the Monthly Energy Payment for the immediately preceding Month as well as any other payments required to be made by either Party under this PPA.

Moody's: Moody's Investors Service, Inc. or its successor.

MW: Megawatt(s) (AC).

MWh: Megawatt-hour(s).

NERC: The North American Electric Reliability Council, including any successor thereto and subdivisions thereof.

New GHG Law: A Legal Requirement enacted after the Effective Date that imposes GHG Charges as a direct result of the generation of electric energy by the Facility.

Nominal Capability: An incremental 3.6 MW added by the Project, specifically comprised of the first 3.6 MW above the Excluded Capacity.

Non-Defaulting Party: Has the meaning assigned in Section 17.3.1 (*Non-Defaulting Party Remedies*).

NOx Allowances: Allowances required by any Governmental Authority or Consent for NOx Emissions.

NOx Emissions: Emissions of nitrogen oxides.

Operating Committee: The committee established under Section 11.7 (*Operating Committee*).

Operating Representatives: Those individuals appointed by each of the Parties to the Operating Committee under Section 11.7 (*Operating Committee*).

Party or **Parties:** Either GPC or Generator, or both, respectively.

Performance Test or **Performance Testing:** A performance test conducted under the procedures set forth in **Exhibit D** (*Performance Testing Procedures*).

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 Transmission System and the Facility's electrical facilities at 1 Bonnybridge Road, Port Wentworth, Georgia 31407, as described in more detail in the Interconnection Agreement.

Pre-existing Contract: that certain Contract for the Purchase of Firm Capacity and Energy from a Renewable Qualifying Facility Utilizing the Proxy Unit Methodology for the Existing Electric Generating Plant, dated as of March 5, 2014, as amended, for, among other things, the purchase of energy associated with the Excluded Capacity.

Primary Beneficiary: Has the meaning set forth in ASC Topic 810, Consolidation, as issued and modified by FASB.

Project: The design, engineering, construction, testing, and commissioning of the capacity addition to the Existing Electric Generating Plant comprising the Facility at the Effective Date and the ownership, operation, management, and maintenance of such capacity addition, all of which being reasonably expected to add the Nominal Capability and enable Generator to fulfill its obligations under this PPA.

Prudent Industry Practices: Any of the practices, methods, standards, and acts engaged in or approved by a significant portion of the independent 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 at the time 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, and acts generally accepted in the United States, having due regard for, among other things, manufacturers' warranties, and applicable Legal Requirements.

Qualifying Federal Support: Means Existing Qualifying Federal Support and Future Qualifying Federal Support.

Qualifying Federal Support Amount: Means Existing Qualifying Federal Support Amount and Future Qualifying Federal Support Amount.

Rating Agency or **Rating Agencies:** 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.

Reference Conditions: 95°F, 45% relative humidity, average barometric pressure at the site at the reference temperature and relative humidity, and the maximum reactive power obligation as specified in the Interconnection Agreement.

Representatives: When used regarding a Party, collectively or individually (as the context might indicate), the Party, its Affiliates and permitted successors and assigns, and the directors, officers, representatives, agents, contractors, subcontractors, and employees of each of them.

Required Commercial Operation Date (RCOD): April1, 2027, subject to any extension of such date under Section 9.3 (*Commercial Operation Delay Caused by Transmission System Capability*) or Section 16.1.1 (*RCOD Extension Upon Force Majeure Event*).

Responding Party: Has the meaning assigned in Section 20.1 (*Notice of Dispute; Dispute Resolution Process*).

Rules: The Expedited Procedures of the Commercial Arbitration Rules.

S&P: Standard & Poor's Financial Services LLC, or its successor.

Scheduled Outage: Has the meaning assigned in Section 11.2.1 (*Maintenance Schedules*).

Scheduling Center: The scheduling center designated by GPC in writing as being the primary control point for communication of expected Delivered Energy and other notifications provided under Part 13 (*Energy Notice and Transmission*). Only one Scheduling Center may be designated at any one time.

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

SERC: The Southeastern Electric Reliability Council, including any successor thereto.

Site: The physical location where the Facility will be or is located, as stated in **Exhibit E** (*Facility Description and Site*).

SO_2 Allowances: Allowances required by any Governmental Authority or Consent for SO_2 Emissions.

SO_2 Emissions: Emissions of sulfur dioxides.

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

Southern Company Transmission System: The integrated high voltage electricity transmission systems of the electric utility operating companies of The Southern Company (as of the date of this PPA, Alabama Power Company, GPC, and Mississippi Power Company), as modified or expanded from time-to-time, as well as any successor in function thereto.

Southern OATT: The Southern Companies Open Access Transmission Tariff and any successor in function thereto.

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

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

Taxes: All taxes, fees, levies, licenses, or charges imposed by any Governmental Authority, other than taxes, levies, licenses, or charges based upon net income or net worth, together with any interest and penalties thereon.

Technical Limits: The operational limits and constraints described in **Exhibit C** (*Technical Limits*).

Term: The term of this PPA specified in Section 2.1 (*Term*).

Termination Payment: Has the meaning assigned in Section 17.3.2 (*Termination Payment*).

Test Energy Price: The product of AIER multiplied by 90% (Test Energy Price = AIER x 0.90).

Tested Reliable Capacity: The capability of the Facility at Reference Conditions to produce energy at full normal utilization as demonstrated under a Performance Test.

Transmission Provider: The owner or operator of the Transmission System responsible for providing transmission service under the Southern OATT.

Transmission System: The Southern Company Transmission System and the Georgia Integrated Transmission System.

Unavailable or **Unavailability:** The extent to which at all times following the Delivery Commencement Date the Facility is unable to deliver energy under this PPA, including due to a Scheduled Outage, Maintenance Outage, Forced Outage, Forced Derate, or a Force Majeure Event.

Variable Interest (VI): Has the meaning as set forth in ASC Topic 810, Consolidation, as issued and modified by FASB.

Variable Interest Entity (VIE): Has the meaning as set forth in ASC Topic 810, Consolidation, as issued and modified by FASB.

PART 2. TERM OF AGREEMENT

2.1 Term. This PPA will become effective on the date on which GPC signs this PPA, as shown on the signature page, and, subject to any earlier termination under the terms of this PPA, will remain in full effect through, and will expire upon the completion of, 10 Annual Periods.

2.2 Survival. All provisions of this PPA that expressly or by implication come into or continue in effect following the expiration or termination of this PPA will remain in effect and be enforceable following the expiration or termination.

2.3 Conditions to Performance. Performance of this PPA is subject to the Commission awarding a Commission Certificate, and if required by Legal Requirements, FERC issuing an order accepting this PPA, in each case as provided below:

2.3.1. FERC Acceptance. If FERC acceptance of this PPA is required by Legal Requirements, and if (i) FERC issues a valid order rejecting this PPA, or (ii) FERC takes action that has the effect of delaying the date when FERC will issue an order accepting this PPA to a date beyond 285 Days after the granting of a Commission Certificate, then the Parties will meet within 10 Business Days after the order or action to negotiate amendments to this PPA that extend the time for FERC to accept the PPA beyond 285 Days after the granting of a Commission Certificate, or other appropriate measures, so that this PPA is legal and fully enforceable without materially increasing the risks for either Party or adversely affecting the value of the economic bargain to either Party contemplated by this PPA in its original form. If the Parties are unable to negotiate any acceptable amendments, or other appropriate measures, either Party may terminate this PPA upon written notice to the other Party, provided that such notice is delivered to the non-terminating Party no later than 30 Days after 285 Days from the granting of a Commission Certificate. This termination right will not be available to the Parties, and the Parties will be deemed to have waived such termination right, absent receipt of the notice by the non-terminating Party before the expiration of the 30-Day period.

Notwithstanding the foregoing, if, prior to 285 Days after the granting of a Commission Certificate, FERC issues a valid order accepting this PPA subject to material modifications or conditions, including acceptance subject to refund following an administrative proceeding, the adversely-affected Party or Parties will have the right to terminate this PPA if such material modifications or conditions are not acceptable to such Party or Parties. Within 15 Days after the issuance of a FERC order, Generator must provide GPC with a copy of the FERC order along with written notice of whether the FERC order is subject to material modifications or conditions that adversely affect Generator and, if so, whether the material modifications or conditions are acceptable to Generator. If Generator fails to provide such written notice within such 15-Day period, any FERC order accepting this PPA subject to material modifications or conditions will be deemed to be acceptable to Generator. Within 15 Days after receipt of a copy of the FERC order from Generator, GPC must provide Generator with written notice of whether the FERC order is subject to material modifications or conditions that adversely affect GPC and, if so, whether the material modifications or conditions are acceptable to GPC. If GPC fails to provide such notice within such 15-Day period, any FERC order accepting this PPA subject to material modifications or conditions will be deemed to be acceptable to GPC.

If either Party provides written notice that the material modifications are not acceptable, the Parties will meet within 10 Business Days after the notice to negotiate amendments to this PPA, or other appropriate measures, so that this PPA is legal and fully enforceable without materially increasing the risks for either Party or adversely affecting the value of the economic bargain to either Party contemplated by this PPA in its original form. If the Parties are unable to negotiate any acceptable amendments, or other appropriate measures, the Party who delivers the notice will have the right to terminate this PPA upon written notice to the other Party if the written notice is delivered no later than 30 Days after 285 Days following the granting of a Commission Certificate. Upon a termination under this Section 2.3.1 (*FERC Acceptance*), neither Party will have any liability to the other Party under this PPA.

2.3.2. Commission Certificate. If, after 250 Days following the filing date by GPC of the application with the Commission for a Commission Certificate ("**Commission Certificate Target Date**"), (i) the Commission has not approved this PPA and denied granting a Commission Certificate, or (ii) the Commission has issued a Commission Certificate that is subject to material qualifications or conditions that adversely affect GPC, GPC may terminate this PPA upon written notice to Generator, so long as such notice is delivered to Generator no later than 30 Days after the Commission Certificate Target Date. If within 30 Days after the Commission Certificate Target Date the issuance or denial of the Commission Certificate has been appealed to the Commission or Fulton County Superior Court, GPC may terminate this PPA upon written notice to Generator, so long as such notice is delivered to Generator no later than 80 Days after the Commission Certificate Target Date. If GPC fails to exercise the above termination right within the applicable notice period, GPC will be deemed to have waived such termination right. Notwithstanding the foregoing, if at any time the Commission amends the Commission Certificate regarding this PPA ("**Amended Commission Certificate**") and the Amended Commission Certificate imposes material qualifications or conditions that adversely affect GPC, unless GPC and Generator agree to amend under Section 2.3.3 (*Commission Modification/Amendment*), GPC will have a unilateral right to terminate this PPA if the material qualifications or conditions are not acceptable to GPC. Within 15 Days after the issuance of the Amended Commission Certificate, GPC must provide Generator with written notice of whether the Amended Commission Certificate is subject to material qualifications or conditions and, if so, whether the material qualifications or conditions are acceptable to GPC. If GPC fails to provide such notice within the 15-Day period, the Amended Commission Certificate will be deemed to be

acceptable to GPC. Upon termination of this PPA under this Section 2.3.2, neither Party will have any further liability to the other Party under this PPA. Notwithstanding anything to the contrary in this PPA, and if it is not otherwise 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.

2.3.3. Commission Modification/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 any modification or condition. If GPC requests, within 30 Days after the issuance of the order, that Generator execute a written amendment agreeing to the modifications or conditions and Generator does not execute the written amendment within 30 Days after the request, GPC may terminate this PPA. Upon termination of this PPA under this Section 2.3.3, GPC must promptly return any unused portion of the Performance Security to Generator and, afterwards, neither Party will have any further obligation to the other Party in this PPA.

PART 3. REPRESENTATIONS, WARRANTIES, AND COVENANTS

3.1 Representations and Warranties of Generator. Generator makes the following representations and warranties to GPC as of the date of this PPA:

3.1.1. Organization; Authority. Generator is a corporation, duly organized, validly existing, and in good standing under the laws of the state of New York, is qualified to do business in the state of Georgia, is the sole owner and operator of the Facility, and has the legal power and authority to own its properties, to carry on its business as now being conducted, to enter into this PPA, and to otherwise carry out the transactions contemplated hereby and perform and fulfill all covenants and obligations on Generator's part to be performed under this PPA.

3.1.2. Corporate Authorization; Consents. The execution, delivery, and performance by Generator of this PPA have been duly authorized by all necessary action and do not and will not require any consents or approvals of any Person other than those that have already been properly obtained.

3.1.3. No Breach. The execution and delivery of this PPA, the consummation of the transactions contemplated hereby, and the fulfillment of and compliance with the provisions of 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 Legal Requirements applicable to Generator, charter, bylaw, operating agreement, or other formation or organizational document of Generator, or any partnership agreement, deed of trust, mortgage, loan agreement, other evidence of Indebtedness, or any other agreement or instrument to which Generator is a party or by which it or any of its property is bound.

3.1.4. Enforceability. This PPA constitutes the legal, valid, and binding obligations of Generator that are enforceable under their 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.

3.1.5. No Proceedings. There is no pending, or to the knowledge of Generator, threatened action or proceeding affecting Generator before any Governmental Authority that purports to affect the legality, validity, or enforceability of this PPA as in effect on the date of this PPA or that could reasonably be expected to have a material adverse effect on Generator.

3.1.6. Bankruptcy. There are no bankruptcy proceedings pending or being contemplated by Generator or, to Generator's knowledge, threatened against Generator.

3.1.7. Debarment. Generator 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.

3.1.8. No Consolidation. To the best of Generator's knowledge and belief, GPC will not be required by any Legal Requirement or any accounting standard, including those implemented or administered by FASB, to consolidate Generator or any of its Affiliates or permitted assigns as a VIE in GPC's or any of its Affiliates' financial statements.

3.1.9. Title. Generator holds all rights to the energy that are sold to GPC hereunder, and Ancillary Services generated from the Facility that are transferred to GPC hereunder, has the right to sell such

energy and transfer such Ancillary Services, and will convey to GPC all rights and good title to the energy and Ancillary Services being sold or transferred hereunder free and clear of any liens, taxes, claims, security interests, and other encumbrances. No Person has made any claim or statement to Generator, or to the best of Generator's knowledge, to any other Person, in any form that anyone other than GPC (or any Person to whom GPC sells or transfers the same) owns or possesses any right, title or interest in or to such energy and Ancillary Services.

3.1.10. Existing Qualifying Federal Support. To the best of Generator's knowledge and belief, it has utilized or otherwise taken into account all Existing Qualifying Federal Support that the Facility may reasonably qualify to receive in connection with determining the Energy Price set forth in this PPA.

3.2 Representations and Warranties of GPC. GPC makes the following representations and warranties to Generator as of the date of this PPA:

3.2.1. Organization; Authority. GPC is a corporation, duly organized, validly existing, and in good standing under the laws of the state of Georgia, 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 hereby and perform and fulfill all covenants and obligations on its part to be performed under this PPA.

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

3.2.3. No Breach. Subject to Section 2.3 (*Conditions to Performance*), the execution and delivery of this PPA, the consummation of the transactions contemplated hereby, and the fulfillment of and compliance with the provisions of this PPA do not and will not conflict with or constitute a breach of or default under any of the terms, conditions, or provisions of any Legal Requirements applicable to GPC, charter, bylaw, or other formation or organizational document of GPC or 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 it or any of its property is bound.

3.2.4. Enforceability. This PPA constitutes the legal, valid, and binding obligation of GPC that is enforceable under 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.

3.2.5. No Proceedings. 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.

3.2.6. Bankruptcy. There are no bankruptcy proceedings pending or being contemplated by GPC or, to GPC's knowledge, threatened against GPC.

3.3 Generator Covenants. Generator covenants and agrees that throughout the Term:

3.3.1. No Modifications. No modifications 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 the prior written consent of GPC, which consent will not be unreasonably withheld, conditioned, or delayed.

3.3.2. No Transfers. Generator must not convey, sell, lease, transfer, or otherwise dispose of all or substantially all of its business or assets, whether now owned or hereafter acquired, without the prior written consent of GPC, under Part 19 (*Assignment and Transfers of Interest*) below.

3.3.3. No Consolidation. GPC will not be required by any Legal Requirement or any accounting standard, including those implemented or administered by the FASB, to consolidate Generator or any of its Affiliates or permitted assigns as a VIE in GPC's or any of its Affiliates' financial statements. Generator covenants to promptly notify GPC following any determination made by Generator or its independent auditor that Generator constitutes a VIE for which GPC is the Primary Beneficiary as a result of this PPA,

considered individually or together with any other power purchase agreements between Generator and GPC. Generator must provide to GPC a VIE certification form in the form of **Exhibit I** (*VIE Certification*) signed by the chief financial officer of Generator (i) at the time of execution of this PPA, (ii) before each anniversary of the Commercial Operation Date during the Term, and (iii) at the time this PPA is amended by the Parties. Generator must also provide GPC a Finance Lease certification in the form of **Exhibit J** (*Certification as to Certain Factual Statements Related to the Proposed Transaction regarding Finance Lease Treatment*) signed by the chief financial officer of Generator at the time of execution of this PPA and afterwards at any time this PPA is amended by the Parties. Generator covenants to promptly notify GPC following any determination made by Generator or its independent auditor that Generator must be partially or fully deconsolidated from the books of Generator or Generator's parent, as the case may be.

3.3.4. Cooperation with GPC Regarding Ownership of Environmental Attributes. Upon GPC's request, Generator agrees to cooperate with GPC to obtain compliance with any required documentation or reporting obligation under any federal or state renewable energy plan to certify the Project or the Environmental Attributes related to energy sold to GPC hereunder. At the written request of GPC, Generator must use reasonable efforts to obtain verification, from a certification authority that is mutually agreed upon by the Parties, that the Environmental Attributes sold to GPC pursuant to this PPA are in compliance with the standards set by such certification authority.

3.3.5. Possession. Except as may be allowed under Section 3.3.2 (*No Transfers*), Part 19 (*Assignment and Transfers of Interest*), or any other provisions of this PPA, Generator must maintain the legal right to and will possess and operate the Facility and deliver the capacity, energy and Ancillary Services of the Facility to GPC under the provisions of this PPA.

PART 4. REGULATORY APPROVALS; COMPLIANCE WITH LAWS, RULES, AND REGULATIONS; TAXES

4.1 Preservation of Terms.

4.1.1. No Material FERC Claims. Each Party agrees that, subject to Section 4.2 (*Other Approvals*), except with the prior written consent of the other Party, it 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 any other Governmental Authority under any Legal Requirement, which claim, action, or proceeding is intended to, or could reasonably be expected to have the effect of, changing the terms of this PPA then in effect. Without limiting the foregoing, but subject to the terms of this PPA, 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 under the provisions of Section 205 or Section 206 of the Federal Power Act, or to any other Governmental Authority under any Legal Requirement, absent written agreement of the Parties.

4.1.2. Applicable FERC Standard. In any proceeding before FERC involving this PPA, the Parties will request that FERC review any and 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), and clarified by NRG Power Marketing LLC v. Maine Public Utility Commission, 130 S. Ct. 693 (2010).

4.2 Other Approvals. Each Party will diligently seek to obtain, maintain, pursue, or cause to be pursued, comply with, and, as necessary, renew and modify any and all Consents, required to be possessed by such Party, in a manner that is reasonably expected to enable such Party to perform its obligations under this PPA. 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, each Party will provide a copy of the Consents to the requesting Party.

4.3 Taxes.

4.3.1. Generator Tax Responsibility. Generator must pay, or cause to be paid, all Taxes on or regarding: (i) the Facility, including its development, permitting, design, engineering, procurement, construction, testing, startup, ownership, leasing, financing, operation, and maintenance; (ii) the production and delivery of energy and Ancillary Services to be provided to GPC arising, in the case of energy, before the time of Generator's delivery of such energy to GPC at the POI, or, in the case of Ancillary Services, before the time such Ancillary Services are made available to GPC. Generator will be responsible for any new Taxes that may arise after the date of execution of this PPA concerning the conversion of Biomass fuel or natural gas into energy.

4.3.2. GPC Tax Responsibility. GPC must pay or cause to be paid all Taxes on or regarding: (i) energy received by GPC arising at and after the time such energy is delivered by Generator to the POI, and (ii) Ancillary Services received by GPC arising at and after the time such Ancillary Services are made available to GPC. Such Taxes will include the sales, use, excise, or other similar Taxes on the sale to GPC and purchase from Generator of capacity, energy, and Ancillary Services under this PPA.

4.3.3. Taxes Minimized. Each Party must use reasonable efforts to implement and administer the provisions of this PPA in accordance with the intent of the Parties to minimize Taxes so long as neither Party is materially adversely affected by such efforts.

4.3.4. Deductions. If Generator is required by Legal Requirements to remit or pay Taxes that are GPC's responsibility in this PPA, Generator may include such Taxes in the next Monthly Invoice and GPC must remit payment thereof in accordance with Part 6 (*Billing and Payment*). Conversely, if GPC is required by Legal Requirements to remit or pay Taxes that are Generator's responsibility in this PPA, GPC may deduct the amount of any such Taxes from the sums otherwise due to Generator under this PPA. Any refunds associated with such 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 it is exempt under applicable Legal Requirements.

PART 5. SALE AND DELIVERY OF CAPACITY AND ENERGY

5.1 Agreement to Sell and Purchase.

5.1.1. Sale and Purchase of Energy at Point of Interconnection. At all times following the Delivery Commencement Date, but subject to the terms of this PPA, Generator must deliver to the POI and sell to GPC, free and clear of any liens, taxes, claims, security interests, and other encumbrances, and GPC must purchase and receive from Generator at the POI, 100% of the energy produced by the Facility that corresponds to the Contracted Capacity, net of Station Service, and all associated Ancillary Services, except that: (i) if Generator delivers Excess Energy, GPC will purchase Excess Energy at the Excess Energy Price as set forth in **Exhibit B** (*Energy Payment Calculation*), and (ii) Generator is prohibited from delivering, and GPC is not obligated to purchase or receive, energy (or any associated Ancillary Services) in an amount that exceeds the maximum output amount contemplated in the Interconnection Agreement ("**Interconnection Limit**"). For the avoidance of doubt, this PPA does not apply to the sale and purchase of energy and Ancillary Services produced by the Facility that corresponds to the Excluded Capacity. The delivery of energy to the POI includes the transfer to GPC of all Ancillary Services associated with such energy. The Monthly Energy Payments are the exclusive compensation owed to Generator for capacity, energy, and Ancillary Services under this PPA.

5.1.2. Station Service. Generator is responsible for all Station Service at Generator's expense.

5.1.3. Further Provisions. Generator must deliver capacity and energy from the Facility to GPC at the POI. The risk of loss of energy will pass from Generator to GPC at the POI. The Facility must be interconnected on the Transmission System and must be situated so that GPC can provide balancing services 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 under this PPA and for any costs thereof.

5.1.4. Restriction on Third-Party Sales. Generator must not sell or transfer any of the Ancillary Services or sell or transfer any of the capacity or energy associated with the Project, except as sold and transferred hereunder to GPC.

5.2 Calculation of Monthly Energy Payments. Subject to the terms of this PPA, GPC must pay Generator a Monthly Energy Payment for Delivered Energy, calculated under **Exhibit B** (*Energy Payment Calculation*). For the avoidance of doubt, the Monthly Energy Payment includes all compensation owed to Generator for Ancillary Services associated with Delivered Energy.

PART 6. BILLING AND PAYMENT

6.1 Energy Billing and Payment.

6.1.1. Monthly Invoice. Subject to the provisions of Section 6.2 (*Billing Disputes and Final Accounting*), by the 10th Day of each Month (commencing with the Month immediately following the Delivery

Commencement Date), Generator must send the Monthly Invoice to GPC. Payments owed by Generator to GPC will be netted against payments due to Generator by GPC.

6.1.2. Payment. All Monthly Invoices will be due and payable by GPC by the 10th Day after GPC's receipt of the invoice. If the 10th Day is not a Business Day, payment will be due on the next succeeding Business Day. Subject to the provisions of Section 6.2 (*Billing Disputes and Final Accounting*), GPC will make payment to Generator under the invoices by the date due in immediately available funds, through wire transfer of funds to an account designated by Generator, or other means acceptable to Generator. Interest on unpaid amounts will accrue from the date the payments were 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 under Section 5.2 (*Calculation of Monthly Energy Payments*).

6.1.3. Future Qualifying Federal Support Amount Payments. On the Monthly Invoice submitted within 30 days of Generator or an Affiliate receiving any Future Qualifying Federal Support Amount, Generator shall include the amount received on its Monthly Invoice and shall deduct the Future Qualifying Federal Support Amount from the amount owed by GPC to Generator, in accordance with section 6.1.1 and Exhibit B (*Energy Payment Calculation*).

6.2 Billing Disputes and Final Accounting.

6.2.1. Disputed Amounts Withheld. If GPC questions or contests the amount or propriety of any payment claimed by Generator to be due under this PPA, GPC must make payment to Generator of amounts not in dispute but may withhold amounts disputed in good faith until after the settlement of the question or contest under this Section 6.2 (*Billing Disputes and Final Accounting*).

6.2.2. Initial Dispute Process. If GPC questions or contests the correctness of any charge or credit, GPC will provide Generator with written notice of the amount and the basis for GPC's question or contest. Generator will promptly review the questioned charge or credit and will notify GPC of any error in Generator's determination of amounts owed by GPC and issue an amended invoice in the amount of any payment that GPC is required to make in respect of the re-determination. If GPC disputes in good faith Generator's amended invoice amount, the matter must be resolved under the provisions of Part 20 (*Dispute Resolution*) applicable to billing disputes. To the extent that Generator disagrees with GPC's basis for questioning the original invoice, Generator will provide a written explanation of its position.

6.2.3. Correction Timing. Generator will have until the end of one year after the date of delivery of energy or Ancillary Services under this PPA to correct any invoice for payment due for the energy and associated capacity and deliver a corrected invoice to GPC. GPC will have until the end of one year after its receipt of any invoice to question or contest the correctness of any charge or credit made to GPC on the invoice. If within such one-year period, GPC has made payment under an invoice and afterwards questions or contests the correctness thereof, Generator will not be required to refund any payment received from GPC until it is finally determined that Generator's invoice was in error.

6.3 Interest. If either Party does not make a payment required by this PPA when due, interest at the Interest Rate will accrue on the overdue payment from the date the payment was due until the overdue payment, together with interest accrued, is paid in full. If either Party makes a payment under an invoice that is later determined to have been incorrect, 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 the 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. Notwithstanding this Section 6.3 (*Interest*), no interest will be paid regarding any Monthly Availability Adjustment except to the extent that such Monthly Availability Adjustment is not correctly calculated or invoiced under this PPA.

6.4 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 auditing Party to verify the calculation of the Monthly Energy Payments, and any other invoice, charge, or payment demand made in connection with this PPA.

PART 7. PERFORMANCE SECURITY

7.1 Generator Performance Security. If Generator is not Creditworthy, Generator must deliver Generator Performance Security to GPC simultaneous with the execution of this PPA and maintain it as provided in this PPA. If a Creditworthy Generator loses its Creditworthy status during the Term, Generator must deliver Generator Performance Security to GPC in the amount required in this PPA no later than five Business Days after the date that Generator loses its Creditworthy status. If Generator is not Creditworthy but subsequently seeks to assign this PPA to a Creditworthy Person, (i) the Person will not be required to provide Generator Performance Security unless that Person loses its Creditworthy status; and (ii) GPC must return the Generator Performance Security within five Business Days following the effective date of the assignment. The amount of Generator Performance Security that Generator must maintain throughout the Term will be as provided in Table 7.1 below, except that the amount of Generator Performance Security required will be adjusted at certain prescribed times under the following Table 7.1.

TABLE 7.1

Applicable Dates	Amount of Generator Performance Security Required
Effective Date to COD	REDACTED/kW of Nominal Capability
From COD through the Remainder of the Term	REDACTED/kW of Nominal Capability

If any portion of Generator Performance Security that GPC is then holding is in the form of a Generator Guaranty and a Material Adverse Change occurs in respect of Generator Guarantor, within three Business Days after the occurrence of the Material Adverse Change, Generator must deliver to GPC replacement Eligible Collateral to replace the Generator Guaranty, which replacement Eligible Collateral must be in a form other than a Generator Guaranty.

7.2 [RESERVED]

7.3 Replacement Collateral; Substituted Collateral; Release of Collateral.

7.3.1. Replacement Collateral. To the extent that any supplement to or replacement of Generator Performance Security is required to maintain compliance with Section 7.1 (*Generator Performance Security*), Generator must deliver same to GPC no later than 90 Days before the earlier of (i) the date when an increase or decrease in Generator Performance Security is required under Table 7.1, and (ii) the date when the existing Generator Performance Security will expire. However, the increase or decrease, as the case may be, in Generator Performance Security will not become effective until the applicable date specified in Table 7.1 has arrived. In the event of a failure to comply with the preceding sentences of this Section 7.3.1, GPC will be entitled, without limitation to its other remedies under this PPA or at law, to (x) draw the full amount on the existing Generator Performance Security before the expiration date thereof and (y) take further action to protect its interests under this PPA. Upon receipt of any replacement Generator Performance Security, and if Generator remains in compliance with this Part 7 *(Performance Security*), GPC will not draw upon the existing Generator Performance Security, for which the replacement is being made, solely because the existing Generator Performance Security is about to expire.

7.3.2. Release of Collateral; Substituted Collateral. Upon supplement to or replacement of the Generator Performance Security under Section 7.3.1 (*Replacement Collateral*), GPC will promptly release the Eligible Collateral that is being replaced back to Generator. The choice of any Eligible Collateral provided by Generator may be selected by Generator, and, upon receipt and acceptance of substitute Eligible Collateral, GPC will promptly release the Eligible Collateral for which substitution is being made in an amount equal to that which is being substituted. 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 from the termination date, and, after the settlement, any remaining Generator Performance Security posted by Generator that has not been drawn upon by GPC under its rights under

this PPA must be returned to Generator. Any dispute between the Parties regarding the final settlement will be resolved according to the applicable procedures set forth in Part 20 (*Dispute Resolution*), and any remaining Generator Performance Security posted by Generator will not be returned to Generator until the resolution of the dispute.

7.4 Draws; Replenishment. In addition to the draws permitted by Section 7.3.1 (*Replacement Collateral*), GPC may draw upon the Generator Performance Security provided by Generator to recover any damages to which GPC is entitled under this PPA (including damages following the occurrence of an Event of Default by Generator) or any other unpaid amounts owed by Generator under this PPA, including to recover delay liquidated damages under Section 8.3 (*Failure to Achieve Commercial Operation by the Required Commercial Operation Date),* damages arising from an Event of Default by Generator, and termination damages arising from termination of this PPA by GPC for an Event of Default by Generator. In the event of a draw on the Generator Performance Security, except in the circumstance when GPC establishes an Early Termination Date under Section 17.3.1 (*Non-Defaulting Party Remedies*) or this PPA otherwise terminates, Generator must within three Business Days after the draw on the Generator Performance Security replenish the Generator Performance Security to the full amount required by Section 7.1 (*Generator Performance Security*).

7.5 Reporting. Generator must promptly notify GPC of any circumstance that results in Generator's failure to be in compliance with the Generator Performance Security requirements of this Part 7 (*Performance Security*). At GPC's written request, Generator must provide GPC with such evidence as GPC may reasonably request to demonstrate that Generator and any Generator Guarantor, Generator Guaranty, Letter of Credit or Security Account is in full compliance with this PPA.

7.6 Delivery of Generator Performance Security. Generator must provide the Generator Performance Security required to meet any of the Performance Security requirements under this PPA by delivering to GPC the Generator Performance Security (e.g., cash wired to an account to be designated by GPC, Letter of Credit, Generator Guaranty, etc.) to the following address:

Georgia Power Company
c/o Southern Company Services, Inc.
Attention: Assistant Treasurer
BIN SC1407
30 Ivan Allen Jr. Blvd.
Atlanta, Georgia 30308

PART 8. PROJECT IMPLEMENTATION AND CONSTRUCTION

8.1 Design and Construction of the Project; Commercial Operation of the Facility by RCOD.

8.1.1. Commercial Operation. The Project will be completed under Prudent Industry Practices and all applicable Legal Requirements. The Project (and the Facility) will not achieve "Commercial Operation" under this PPA until Generator has satisfied the following criteria: (i) Generator has completed the Project to add the Nominal Capability to such electric generating plant; (ii) Generator has demonstrated that the Facility is capable of producing energy corresponding to the added Nominal Capability and delivering same to the Transmission System through the POI; (iii) the Facility is in compliance with the Interconnection Agreement, and the Facility will have demonstrated the reliability of its communication systems with the Scheduling Center; (iv) the Facility has successfully completed the Performance Test under Section 10.1 (*Excluded Capacity; Tested Reliable Capability and Designated Capacity of the Facility*) or GPC will have determined to its reasonable satisfaction through any combination of testing and examination of Facility data that the Facility is fully capable of successfully completing a Performance Test; (v) Generator will have provided GPC a certificate reasonably acceptable to GPC, stating that the Project has been designed, engineered, constructed, and tested under Prudent Industry Practices and that the Facility is capable of performing under the terms of this PPA; and (vi) Generator will have delivered to GPC a certificate from a responsible officer of Generator certifying that Generator has obtained all Governmental Approvals required under Legal Requirements for the construction of the Project and the addition of the Nominal Capability to the electric generating plant through the Project and otherwise for the ownership, operation, and maintenance of the Facility under this PPA. Generator must achieve Commercial Operation of the Facility under this Section 8.1 (*Design and Construction of the Project; Commercial Operation of the Facility by RCOD*) on or before the RCOD.

8.1.2. Milestone Schedule. By 250 Days after the date of the Commission Certificate, Generator must provide GPC with a Milestone Schedule. Generator must notify GPC of any significant changes in the

Milestone Schedule and the status of construction as said changes occur (including the reason(s) for the change). At GPC's request, Generator must provide to GPC periodic progress reports in a form satisfactory to GPC indicating percentage completion of each major milestone and reporting on significant developments that may delay the construction schedule. Promptly after becoming aware of events or circumstances that could reasonably be expected to cause a delay in achieving the Commercial Operation Date by the RCOD, Generator must provide to GPC for its review and reasonable approval a recovery plan setting forth in reasonable detail and with supporting documentation (i) the causes of the event or circumstance and the expected delay and (ii) Generator's plan to recover the lost time and achieve Commercial Operation by the RCOD, and, if not by the RCOD, within nine Months after the RCOD. Should Generator fail to submit a recovery plan that meets with GPC's reasonable approval or fail to diligently implement the recovery plan, GPC may declare a Generator Event of Default under Section 17.1.5 (*Material Breach of Agreement*). Nothing in this Section 8.1.2 (*Milestone Schedule*) will be construed to relieve Generator of any of its obligations set forth under this PPA.

8.1.3. Inspection Rights. GPC will have the right to reasonably request information regarding the status of the Project and to inspect its construction, startup, and testing. Generator must provide the information (or cause the information to be provided) to GPC as may be reasonably requested by GPC. In addition, Generator must coordinate physical inspections of the Facility (which includes the Project) as may be reasonably requested by GPC during and after completion of construction. GPC must provide reasonable prior notice to Generator regarding the inspections. All activities of GPC, its designated employees, and agents at the Site will be subject to the rules and procedures of Generator (including those related to health and safety).

8.2 Permitting. An Event of Default by Generator will arise under Section 17.1.11 (*Failure to Obtain Air Permit*) if Generator fails to obtain the Air Permit by the Air Permit Threshold Date or if Generator reasonably determines that Generator will not obtain the Air Permit by the Air Permit Threshold Date. In either case, Generator must promptly deliver written notice thereof to GPC. If GPC terminates this PPA under Section 17.3.1 (*Non-Defaulting Party Remedies*) for an Event of Default by Generator under Section 17.1.11 (*Failure to Obtain Air Permit*), Generator must pay to GPC termination liquidated damages equal to the applicable amount shown in Table 7.1 and Generator must reimburse GPC for the total amount of costs incurred by GPC for modifications to the Transmission System associated with the Facility and the delivery of energy from the Facility to GPC's customers. Following any such termination and Generator's payment to GPC of all required termination liquidated damages under this Section 8.2 (*Permitting*), neither Party will have any other liability to the other Party under this PPA.

8.3 Failure to Achieve Commercial Operation by the Required Commercial Operation Date. If Generator fails to achieve Commercial Operation of the Facility under Section 8.1 (*Design and Construction of the Project; Commercial Operation of the Facility by RCOD*) by the RCOD, Generator must pay to GPC delay liquidated damages in an amount calculated under Table 8.3 below, prorated daily, until the earlier of the Commercial Operation Date, any written notice from Generator that Commercial Operation of the Facility under Section 8.1 (*Design and Construction of the Project; Commercial Operation of the Facility by RCOD*) will not be achieved, or any termination of this PPA by GPC under Section 17.3.1 (*Non-Defaulting Party Remedies*) for an Event of Default by Generator under Section 17.1.10 (*Abandonment or Failure to Achieve Commercial Operation*).

TABLE 8.3

Month	Amount ($/kW of Nominal Capability-month)
January – February	REDACTED
March – June	REDACTED
July – August	REDACTED
September – December	REDACTED

Generator must make payment to GPC of delay liquidated damages owed under this Section 8.3 on a Monthly basis by 10 Days following the end of the applicable Month. For the avoidance of doubt, GPC may draw upon the Generator Performance Security to recover delay liquidated damages owed under this Section 8.3 and Generator must replenish the Generator Performance Security, all under Section 7.4 (*Draws; Replenishment*). Any disputes

regarding delay liquidated damages under this Section 8.3 will be resolved under the procedures set forth in Section 6.2 (*Billing Disputes and Final Accounting*). Any abandonment of the development or construction of the Project by Generator before the Commercial Operation Date, or any failure by Generator to achieve Commercial Operation of the Facility by nine Months after the RCOD, or any Generator notification to GPC that Generator has reasonably determined that Generator will not achieve Commercial Operation or that Commercial Operation will not be achieved by nine Months after the RCOD, will constitute an Event of Default by Generator under Section 17.1.10 (*Abandonment or Failure to Achieve Commercial Operation*). If GPC terminates this PPA under Section 17.3.1 (*Non-Defaulting Party Remedies*) for an Event of Default by Generator under Section 17.1.10 (*Abandonment or Failure to Achieve Commercial Operation*), then, in addition to Generator's payment of the delay liquidated damages that accrue under this Section 8.3 before termination, Generator must pay to GPC termination liquidated damages equal to the applicable amount shown in Table 7.1 and Generator must reimburse GPC for the total amount of costs incurred by GPC for modifications to the Transmission System associated with the Facility and the delivery of energy from the Facility to GPC's customers. Following any such termination and Generator's payment to GPC of all required termination liquidated damages and delay liquidated damages under this Section 8.3, neither Party will have any other liability to the other Party under this PPA.

PART 9. INTERCONNECTION AND METERING

9.1 Interconnection. Generator must (i) apply for interconnection of the Project (including the Facility) with the Transmission Provider by the Effective Date, (ii) enter into an Interconnection Study Agreement with the Transmission Provider by 30 Days after the Effective Date, (iii) after certification of this PPA by the Commission, enter into an Interconnection Agreement with the Transmission Provider within 30 Days after the Transmission Provider presents the Interconnection Agreement to Generator for execution, and (iv) timely comply with all obligations under the Interconnection Study Agreement and Interconnection Agreement, including timely submission of required data and documentation and timely payment, as applicable. The Interconnection Study Agreement must address the full seasonal capability of the Facility. The Interconnection Agreement will be maintained throughout the Term of this PPA. Generator must promptly provide a copy of, and any amendments to, the Interconnection Agreement to GPC under the notice provisions of Section 21.4 (*Notices*). GPC will not be responsible under this PPA for any costs and expenses (including overheads) incurred in connection with the design, construction, installation, and maintenance of the Interconnection Facilities. Generator is responsible for determining all transmission-related rules, practices, and policies with which it must comply.

9.2 Meters.

9.2.1. Metering System Criteria. The Parties will ensure the Metering System is designed, located, constructed, installed, owned, operated, and maintained under the Interconnection Agreement and Prudent Industry Practices to measure and record the amount of energy delivered from the Facility to the POI, to calculate the Facility capacity, and to measure the availability of the Facility. The meters must be of a mutually acceptable accuracy range and type. Generator will be responsible for the cost of the Metering System that will be installed, owned, operated, and maintained by GPC for the purpose of determining the amount of energy delivered to the POI. All Metering System equipment installed by GPC will be and remain the personal property of GPC. None of Generator, Generator's Affiliates, or the employees, subcontractors, or contractors of any of them, will make adjustments to the Metering System without the written consent of GPC. Generator may, at its own cost, install additional meters or other such facilities, equipment, or devices on Generator's side of the POI as Generator deems necessary or appropriate to monitor the measurements of the Metering System, except that in all cases GPC will be entitled to base its invoiced amounts solely by reference to its own Metering System. Generator will reasonably establish the telemetering equipment that is necessary to coordinate the Facility with the Scheduling Center, and Generator must, at its sole cost, install or cause the installation of such telemetering equipment. The telemetered data will be delivered by Generator to the electrical switchyard of the Facility.

9.2.2. Inspection. GPC will inspect and test the Metering System at the times as will conform to Prudent Industry Practices, but not less often than once biennially. Generator will be responsible for all costs and expenses incurred in connection with such inspections or tests.

9.2.3. Adjustments. If the Metering System fails to register, or if the 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: (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 ("**Adjustment Period**"). If the Parties are unable to agree on the amount of the adjustment to be applied to the Adjustment Period, the amount of the adjustment will be determined: (a) by correcting the error if the percentage of error is ascertainable by calibration, tests, or mathematical calculation; or (b) if not so ascertainable, by estimating on the basis of deliveries made under similar conditions during the period since the last test. Within 30 Days after the determination of the amount of any adjustment, GPC must pay Generator any additional amounts then due for deliveries of energy during the Adjustment Period or GPC will be entitled to a credit against any subsequent payments for energy, as the case may be.

9.2.4. Inspection Rights. GPC and its representatives will be entitled to be present at any test, inspection, maintenance, adjustment, and replacement of any part of the Metering System relating to obligations under this PPA.

9.3 Commercial Operation Delay Caused by Transmission System Capability.

9.3.1. RCOD Extension. If Generator's startup and testing activities for the Facility are delayed, as a critical-path item on the Milestone Schedule, solely and directly by (i) if GPC is the Transmission Provider, a delay in the construction of Interconnection Facilities under the schedule under the Interconnection Agreement for which the Transmission Provider is responsible under the Interconnection Agreement, or (ii) a delay by GPC in timely ensuring that the Transmission System is capable of providing or receiving energy to reasonably accommodate Generator's startup and testing activities for the Project under the Milestone Schedule and, as a result of such delay in Generator's startup and testing activities for the Project, Generator is prevented from achieving Commercial Operation by the RCOD, then the RCOD will be extended to a date that will reasonably accommodate Generator's startup and testing activities based on the impact to the critical-path of the Milestone Schedule. However, as a condition to such extension, Generator undertakes all commercially reasonable efforts to avoid, overcome, or otherwise mitigate the impact to the critical-path of the Milestone Schedule. For the avoidance of doubt and notwithstanding anything in this PPA to the contrary, this Section 9.3.1 will not apply, and there will be no extension of the RCOD, (a) for any delay in the construction of Interconnection Facilities if Generator has not timely complied with Section 9.1 (*Interconnection*), including timely performance of its obligations under the Interconnection Agreement, or (b) for any other delay that is caused, in whole or in part, by any action or inaction on the part of Generator.

9.3.2. Sole Remedy. The extension of RCOD under Section 9.3.1 (*RCOD Extension*) will be Generator's sole and exclusive remedy for any delay described in clauses (i) or (ii) of Section 9.3.1 (*RCOD Extension*).

9.3.3. No Term Extension. Notwithstanding anything in this PPA to the contrary, an extension of RCOD under Section 9.3.1 (*RCOD Extension*) will not cause an extension of the Term, and no delay described in clauses (i) or (ii) of Section 9.3.1 (*RCOD Extension*) will otherwise extend this PPA beyond its stated Term.

9.4 Loss Factor Adjustment. If, and to the extent, the Metering System is not measuring deliveries of energy physically at the POI, the metered amount of energy must be adjusted for losses to or from the POI by a loss factor determined by GPC under Prudent Industry Practices. Generator will be provided with a copy of any study or analysis prepared by GPC in determining such loss factor.

PART 10. TESTED RELIABLE CAPACITY; DESIGNATED CAPACITY

10.1 Excluded Capacity; Tested Reliable Capacity and Designated Capacity of the Facility.

10.1.1 Performance Testing – Excluded Capacity. Generator will determine the Tested Reliable Capacity of the biomass electric generating plant at the Site prior to the modification of the Facility by the Project by conducting a Performance Test pursuant to **Exhibit D** (*Performance Testing Procedures*) within the six-month period prior to the modification of the generating plant by the Project (such Tested Reliable Capacity prior to the Project, the "**Excluded Capacity**"). The determination of the Excluded Capacity will be subject to GPC's written approval, such approval not to be unreasonably withheld. Such determination of the Excluded Capacity will be inserted and acknowledged by the Parties in **Attachment 1 to Exhibit B** (*Excluded Capacity*).

10.1.2 Project Performance Testing Standards and Reports. The Tested Reliable Capacity and Designated Capacity of the Facility after modification of the Facility by the Project must be established

under **Exhibit A** (*Capacity; Availability*). Performance Tests must be conducted under **Exhibit D** (*Performance Testing Procedures*). Upon completion by Generator of any Performance Test, Generator must promptly provide to GPC a complete written report, under **Exhibit D** (*Performance Testing Procedures*), of the Performance Test, certified by a responsible officer of Generator, for GPC's review and verification. Following the Delivery Commencement Date, Generator must cooperate with GPC's request for information concerning the performance of the Facility that GPC may reasonably request.

10.2 Disputes Concerning Performance Tests. If the Parties disagree regarding the Performance Test results, the dispute will be resolved under the provisions of Part 20 (*Dispute Resolution)* applicable to Performance Test results. If the dispute is not resolved by the first Day of any Annual Period, the Tested Reliable Capacity and Designated Capacity in effect for the Annual Period may not exceed the Tested Reliable Capacity and Designated Capacity established under **Exhibit A** (*Capacity; Availability*) by the most recent undisputed Performance Test, subject to the outcome of this dispute resolution process.

PART 11. OPERATION AND MAINTENANCE

11.1 Operation and Maintenance.

11.1.1. Generator Conduct Standards. Generator must manage, control, operate, and maintain all parts of the Facility in a manner consistent with Prudent Industry Practices and under applicable planning standards and operating policies of the SERC and NERC and under the Operating Procedures to be developed by the Operating Committee pursuant to Section 11.1.2 (*Development of Operating Procedures*).

11.1.2. Development of Operating Procedures. Generator and GPC will mutually develop and agree upon written Operating Procedures by 12 Months before the Delivery Commencement Date ("**Operating Procedures**"). Topics covered will include: (i) deliveries of energy during startup 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) identification of energy corresponding to Contracted Capacity, Excluded Capacity, and Excess Energy; (vii) reactive power output; (viii) technical limits regarding Facility operation; (ix) ramp rates for the delivery of power to the Transmission System; (x) coordination of maintenance scheduling; (xi) designation of confidential information; (xii) inclusion in the Generator's operating reports to GPC of the amounts, times and circumstances justifying each use of natural gas by the Facility, if any, as allowed under Section 12.1 (*Fuel Supply*) of this PPA; and (xiii) such other matters as the Operating Representatives will agree are appropriate. The Operating Representatives will be responsible for modifying these Operating Procedures in writing to reflect agreed upon changes over the course of the Term. 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.

The Operating Procedures will be designed to include that during any measurement periods for the generation and delivery of energy by the Facility to the POI during the Term, energy subject to a Pre-existing Contract will be deemed to be generated and delivered to the POI first, before any energy associated with the Contracted Capacity is generated and delivered to the POI pursuant to this PPA. Generator will provide GPC with prompt notice of the termination or expiration of the Pre-existing Contract and the entry, termination, or expiration of any new contract for the purchase of energy associated with the Excluded Capacity. After the termination or expiration of the Pre-existing Contract, Generator may provide notice to GPC that, during any forthcoming measurement periods for the generation and delivery of energy by the Facility, energy associated with the Excluded Capacity will be deemed to be generated and delivered to the POI either before or after energy associated with the Contracted Capacity is generated and delivered to the POI pursuant to this PPA. Upon any such election, the Parties will work together to mutually develop and agree upon revisions to the Operating Procedures that effect the election in a commercially reasonable manner. At GPC's request and to GPC's reasonable satisfaction, Generator will provide a written acknowledgement from any other offtaker of the Facility confirming Generator's continued compliance with the Generator-offtaker agreement.

For the avoidance of doubt, if GPC or any other Person is the offtaker under another contract with Generator or its Affiliate for energy associated with the Excluded Capacity, the Parties acknowledge that: (i) energy delivered to GPC or the other Person under the other contract cannot also be delivered to GPC as Excess Energy under this PPA; (ii) energy delivered under this PPA as Excess Energy cannot also be delivered to GPC or the other Person under the other contract; and (iii) the Parties will establish reasonable operating procedures to clearly distinguish energy being delivered to GPC under this PPA and

energy being delivered to GPC or other Person from the Facility under the other contract to ensure, among other things, that GPC is not paying under this PPA and neither GPC nor the other Person is paying under the other contract for the delivery of the same energy and Ancillary Services.

11.1.3. Safety Procedures. Generator must employ at the Facility all safety devices and safety practices required by Prudent Industry Practices. Generator must keep accurate records of any accident or other occurrence at the Site that results in injury to Persons or damage to property. Generator must provide to GPC reasonable access to these records upon not less than seven Days' notice during normal business hours but will not be required to provide access to employment records regarding Facility personnel.

11.1.4. Qualified Personnel. During the Term, Generator must employ qualified and trained personnel for management, operation, and maintenance of the Facility.

11.2 Maintenance Scheduling.

11.2.1. Maintenance Schedules. Commencing two Months before the Delivery Commencement Date and by September 1 of each year afterwards or such other date as may be set forth in the Operating Procedures, Generator must submit to GPC maintenance schedules, 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 ("**Maintenance Schedules**"), for the next four Annual Periods or the number of such Annual Periods remaining in the Term, whichever is less. Generator will be entitled to schedule at least one Maintenance Outage of up to twenty-one (21) Days and a second Maintenance Outage of up to seven (7) Days during each Annual Period, which outages will be approximately four (4) months apart. Generator must not schedule any maintenance of the Facility during any of the Months of May, June, July, August, or September of any Annual Period, except as provided below with regard to Extended Outages, that would decrease the capacity output of the Facility below the Designated Capacity[1] without the prior written consent of GPC. GPC will have 30 Days to review the proposed Maintenance Schedules and may approve or reject the Maintenance Schedules in whole or in part. The Maintenance Schedules are subject to the approval of GPC, which approval will not be unreasonably withheld or delayed; except that any determination by GPC to disapprove a major inspection as defined by the maintenance documents of the original equipment manufacturer ("**Major Inspection**") in May or December, or both, will not be considered unreasonable. Subject to compliance with the terms herein, Generator shall have the right, during the term of this PPA, to include one (1) maintenance outage not to exceed forty (40) continuous days in a Maintenance Schedule (the "**Extended Outage**"). The Extended Outage may not be scheduled in January, February, June, May, July, August, September, or December of any Annual Period. If any portion of the Maintenance Schedules is rejected by GPC, Generator must resubmit revised Maintenance Schedules to GPC within 30 Days after GPC's rejection and GPC and Generator agree to use best efforts to promptly develop Maintenance Schedules that are mutually acceptable to the Parties considering the burdens that GPC's changes impose on Generator compared to the burdens avoided by GPC as a result of the changes. Any dispute concerning this Section 11.2.1 will be resolved under the provisions of Part 20 (*Dispute Resolution*) applicable to Maintenance Schedule disputes. The outages scheduled in the final, approved Maintenance Schedule will be the "Scheduled Outages" for purposes of this PPA.

11.2.2. Maintenance Outages. In addition to Scheduled Outages, Generator may request an unlimited number of Maintenance Outages during any Annual Period. Generator will request each Maintenance Outage at least 24 hours in advance and at least one Business Day in advance. The request must identify the equipment and Designated Capacity that will not be available and the proposed start time and duration of the Maintenance Outage. GPC must respond to Generator's request as soon as reasonably practicable. Generator must not take a Maintenance Outage without GPC's prior written or telephonic consent, and such consent will not be unreasonably withheld, conditioned, or delayed; except that the Parties acknowledge that it will be reasonable for GPC to deny any request for a Maintenance Outage if GPC reasonably believes that it will need energy output from the Facility at a level that would require the availability of the equipment that is proposed to be Unavailable during the Maintenance Outage. GPC will have the right to revoke its consent to a Maintenance Outage if changed conditions require energy output from the Designated Capacity scheduled to be Unavailable during the Maintenance Outage. If GPC reasonably requests Generator to return all or part of that portion of the Facility that is affected by the

[1]: For the avoidance of doubt, as used in Sections 11.2.1 and 11.2.2, "Designated Capacity" refers to that amount of the Tested Reliable Capacity in excess of the Excluded Capacity.

Maintenance Outage to full availability status, Generator must comply as soon as reasonably practical, and with consideration of Generator's mill operations schedule.

11.2.3. Emergency Procedures. If Generator has a Scheduled Outage and the Scheduled Outage occurs or would occur coincident with a System Emergency, GPC will notify Generator of the System Emergency. Due to the System Emergency, GPC may request Generator to reschedule the Scheduled Outage or, if the Scheduled Outage has begun, to expedite the completion thereof, and Generator must comply with the request as soon as reasonably practical.

11.3 Permits. Generator must obtain and maintain, for the period required by Legal Requirements during the Term, all Air Permits, including for the operation of the Facility for a minimum of 8,410 hours per Annual Period throughout the Term, as described in **Exhibit E** (*Facility Description and Site*). Generator must provide a copy of the Air Permit to GPC and must promptly provide a copy of any renewal or amendment to the Air Permit to GPC under the notice provisions of Section 21.4 (*Notices*).

11.3.1. Calculation Upon Generator Event of Default. In the event of a Generator Event of Default resulting from the inability of Generator to cause compliance with the 8,410 hours operating requirement in Section 11.3 (*Permits*), the capacity and energy that would be considered available to GPC under this PPA in calculating the Termination Payment under the provisions of Section 17.3.3 (*Determination of Losses and Costs*) will be determined by utilizing the Facility's Air Permit limitations in effect on the Early Termination Date.

11.4 Access to the Site and the Facility. Generator grants to GPC and its designated employees and agents the right to enter the Site with reasonable prior notice to Generator to: (i) inspect, maintain, and test meters and other GPC equipment; (ii) monitor or measure energy generated by the Facility under the terms of this PPA; (iii) monitor Performance Tests; and (iv) inspect the Facility. All activities of GPC and its designated employees and agents at the Site will be subject to the reasonable rules and procedures of Generator.

11.5 Availability of Records. Generator must keep complete and accurate records and all other data necessary for the purposes of proper administration of this PPA under the following guidelines:

11.5.1. Record Preservation. All records related to the Facility and Generator's performance under this PPA must be maintained for a minimum of five years after the creation of the record or data and for any additional period of time required by Legal Requirements or a Governmental Authority; except that such records will be kept for as long as is necessary to complete any audit that began or was announced during the five-year period. Notwithstanding anything in this PPA to the contrary, if Generator intends to dispose of or destroy any such records or data after the five-year period, Generator must provide GPC with 30 Days' prior written notice.

11.5.2. Operating Log. An accurate and up-to-date operating log must be maintained at the Facility with records of: (i) real and reactive power production for each clock hour; (ii) changes in operating status and scheduled maintenance; (iii) Scheduled Outages, Maintenance Outages, Forced Outages, and Force Majeure Events; (iv) any unusual conditions found during inspections; and (v) any significant events related to the operation of the Facility.

11.5.3. Facility Inspection Right. Upon reasonable advance notice and during normal business hours, GPC will have the right to examine the records and data relating to the Facility and this PPA, including all historical test records relating to the Facility, at the Facility or at a location mutually agreed to by the Parties.

11.5.4. Financial Inspection Right. At the request of GPC throughout the Term of this PPA, Generator must provide to GPC public and non-public financial and business information reasonably necessary for GPC to make accounting determinations, including Future Qualifying Federal Support. Without limiting the foregoing, upon reasonable notice to Generator, GPC and GPC's independent auditor will have the right to inspect the books and records of Generator as are reasonably necessary for GPC to determine whether Generator constitutes a VIE and this PPA represents a VIE, or if this PPA must be treated as a Finance Lease. To the extent the inspection requires access to confidential information of Generator, the information will constitute Confidential Information subject to the provisions of Section 21.13 (*Confidentiality*) of this PPA.

11.6 Disclaimer. Generator understands and agrees that GPC's receipt and review of any material related to the Project or any physical inspection of the Facility conducted by GPC under any provision of this PPA is solely for its own information. By conducting such reviews or inspections, 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 Generator under 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. Generator will in no way represent to any third party that, as a result of GPC's receipt and review of any material or any inspections, GPC is in any way responsible for the engineering or construction soundness of the Facility.

11.7 Operating Committee.

11.7.1. Membership, Meetings, and Responsibilities. The Parties will establish an Operating Committee comprised of two Operating Representatives, one appointed by each of Generator and GPC. Generator and GPC, as the case may be, must provide written notice of the appointments to the other Party. The appointments may be changed by the maker of the appointment 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 in this PPA that may be delegated to them by mutual agreement of the Parties but will not have any authority to modify or amend the terms of this PPA.

11.7.2. Dispute Resolution, Decisions in Writing. Each Party will cooperate in providing to 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 matter will be submitted to senior officers for discussion and resolution. All decisions and agreements made by the Operating Representatives or their principals must be evidenced in writing.

PART 12. FUEL SUPPLY; ALLOWANCES

12.1 Fuel Supply. Generator, at its sole expense, will be responsible for obtaining and managing the Biomass fuel necessary for the operations of the Facility. Generator must develop and maintain a Biomass fuel supply plan (including any use of natural gas as allowed herein) required for the operation of the Facility to deliver energy under this PPA (the "**Fuel Supply Plan**"). Generator must provide the Fuel Supply Plan to GPC and must provide GPC all updates to the Fuel Supply Plan. As part of the Fuel Supply Plan, Generator must also provide to GPC all fuel procurement and transportation contracts to verify adequate fuel delivery to the Facility. The Facility must be fueled by Biomass, except that GPC will allow for natural gas to be used with limitations in the startup and shutdown of the Facility in accordance with Prudent Industry Practices so long as its limited and necessary use is clearly demonstrated by Generator to the satisfaction of GPC in each operating report to GPC. Such use of natural gas must be strictly limited to the extent operationally necessary and essential for the startup or shutdown of the Facility.

12.2 Allowances.

12.2.1. Facility NOx and SO_2 Allowances. Generator is responsible, at its expense, for all NOx Allowances and SO2 Allowances required for NOx Emissions and SO_2 Emissions, respectively, from the Facility resulting from energy generated by the Facility under this PPA. If such NOx Emissions or SO2 Emissions exceed the Facility NOx Allowances or Facility SO_2 Allowances, respectively, Generator, at its own expense, will be responsible for obtaining all additional NOx Allowances or SO_2 Allowances, as applicable, required for the NOx Emissions or SO2 Emissions in excess of the Facility NOx Allowances or Facility SO_2 Allowances; and no such expenses may be reimbursed by GPC or in any other way passed on to GPC.

12.2.2. Other Allowances Generator Responsibility. Generator will be solely responsible, at its sole cost and expense, for any and all other emission allowances other than NOx Allowances and SO_2 Allowances that are required in connection with the Facility, including for any emissions or energy produced therefrom.

PART 13. ENERGY NOTICE AND TRANSMISSION

13.1 Required Notices.

13.1.1. Annual Notice. By September 1 of each calendar year, Generator must provide GPC with the time, duration, and magnitude of any planned outages or reduction in capacity for the next calendar year.

13.1.2. Daily Notice. By 8:00 A.M. ET of each Day, Generator must provide GPC an estimate of the hourly amounts of energy to be delivered to the POI for the next Day. Generator must comply with

reasonable requirements of GPC regarding Day-to-Day or hour-by-hour communications with GPC relative to the performance of this PPA.

13.1.3. Other Notices. Generator must promptly notify GPC of any Unavailability of the Facility or other reduction of Designated Capacity, including any Forced Outages, Forced Derates, and Unavailability arising from Force Majeure Events. Each such notice must contain information describing the event or condition, the beginning date and time of the event or condition, the expected end date and time of the event or condition, the amount of energy that Generator expects will be provided during the event or condition, and any other information reasonably requested by GPC.

13.2 Coordination. At the request of GPC, Generator must make reasonable efforts to cause the Facility to control voltage by producing or absorbing reactive power subject to the Technical Limits so long as such actions do not cause Generator to violate any provisions of its Interconnection Agreement and except that GPC will reimburse Generator for any incremental costs incurred by Generator (including waiving any negative Facility Availability impacts directly attributable to Generator's compliance with the reactive power instructions), in excess of those costs Generator would have incurred under the Interconnection Agreement, as a result of Generator's compliance with any requests.

13.3 System Emergency.

13.3.1. Process Upon System Emergency. 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 under the operating criteria and guidelines of NERC. If a System Emergency is declared and the Scheduling Center, at its sole discretion, identifies the need to modify the output of the Facility, the Scheduling Center will notify Generator's personnel and, if requested, Generator's personnel must immediately place the energy of the Facility within the exclusive control of the Scheduling Center for the duration of the System Emergency. In such an event, GPC will ensure that the Scheduling Center does not cause the Facility to be operated in a manner that exceeds the Technical Limits or any operations-related limits in the Air Permit without the prior consent of Generator, and, notwithstanding Generator's consent, GPC will be responsible for all costs associated with operation of the Facility pursuant to such Scheduling Center control, including any penalties imposed on Generator by any Governmental Authority or costs incurred by Generator associated with additional maintenance or accelerated maintenance, under Prudent Industry Practices, due to the event. Without limiting the generality of the foregoing, the Scheduling Center may require Generator's personnel to raise or lower production of energy generated by the Facility, including potential startup or shutdown situations, to maintain safe and reliable load levels and voltages on the Transmission System.

13.3.2. System Emergency Plans. Generator must cooperate with GPC in establishing System Emergency plans, including recovery from a local or widespread electrical blackout, voltage reduction to effect load curtailment, and other such plans that may be necessary or appropriate under the circumstances.

13.4 Effect of Grid Emergencies. The Parties recognize that, under the Interconnection Agreement, Generator may be required to reduce generation or take certain actions during a Grid Emergency (as defined in Generator's Interconnection Agreement) and may be required to disconnect the Facility from the Transmission System to allow mitigation of system problems and repair or maintenance on the Interconnection Facilities or the Transmission System. To the extent that Generator is required under the Interconnection Agreement to take any such action (other than where Generator's acts or omissions are the cause for the required actions) that will adversely affect its ability to deliver energy in this PPA, the hours (or equivalent hours) of Unavailability will be subtracted from the Monthly Hours for the purposes of the Monthly Availability Percentage calculation under **Exhibit A** Section B (*Calculation of Monthly Availability Percentage*). For the avoidance of doubt, Generator is not entitled to any payment or other compensation under this PPA for energy not delivered as a result of a Grid Emergency.

13.5 Effect of Insufficient Capability in the Transmission System. If the Transmission System is unable to receive the energy from the Facility, the hours (or equivalent hours) of Unavailability will be subtracted from the Monthly Hours for the purposes of the Monthly Availability Percentage calculation under **Exhibit A** Section B (*Calculation of Monthly Availability Percentage*). For the avoidance of doubt, Generator is not entitled to any payment or other compensation under this PPA for energy not delivered in such event.

PART 14. INSURANCE

14.1 Insurance Required of Generator. Throughout the Term, Generator must acquire and maintain, 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 14. The required coverages may be met through any combination of primary insurance and following form excess or umbrella insurance, so long as the combined limits meet the requirements of this PPA:

14.1.1. Commercial General Liability. 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) per occurrence; including broad form contractual liability and a separation of insureds provision; except that (i) Generator may use any combination of primary or excess policies to satisfy the overall limit requirements; and (ii) if Generator 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.

14.1.2. 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) per occurrence and endorsement providing insurance for obligations under the U.S. Longshoremen's and Harbor Worker's Compensation Act and the Jones Act, where applicable.

14.1.3. Business 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).

14.1.4. Pollution Liability. Coverage for bodily injury, property damage, including clean-up costs and defense costs resulting from sudden, accidental, and 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 (including per- or polyfluoroalkyl chemicals) into or upon land, the atmosphere or any water course or body of water must be maintained, with limits not less than five million dollars ($5,000,000) per occurrence or claim and twenty-five million dollars ($25,000,000) in the aggregate. However, if Generator 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.

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

14.2 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 before the effective date of any cancellation, with the exception of a 10 Days' notice for nonpayment of premium. If notice of cancellation is only commercially available to Generator's attention, Generator must forward such 30 Days' (or, for non-payment of premium, 10 Days') advance notice to GPC immediately upon receipt. Furthermore, Generator agrees to notify GPC at least 30 Days before the effective date of any known material change in a required policy.

14.3 Additional Insurance Requirements. Throughout the Term, 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 Generator's failure to maintain the Facility in satisfactory and safe operating condition. Generator'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 Generator's insurance, contingent and non-contributory. To the extent allowed by applicable law, GPC and its Representatives must be additional insureds under the commercial general liability policy, auto liability policy, pollution liability policy and, if applicable, excess/umbrella policy. To the extent allowed by applicable law, Generator waives, and must require its insurers to waive, a right of subrogation against GPC and its Representatives for the commercial general liability policy, auto liability policy, pollution liability policy, umbrella policy, if applicable, and the workers' compensation policy.

14.4 Proof of Insurance. Before the Effective Date and annually afterwards on the anniversary of the Effective Date, Generator must provide to GPC a certificate of insurance certifying Generator's coverage under insurance policy(ies) issued by insurance company(ies) holding a Best rating of at least A- VII and authorized to do business in the state where the Facility is located. Receipt or acceptance by GPC, with or without objection, of a certificate of insurance that does not comply with this Part 14 does not operate as a waiver by GPC of Generator's obligations under the requirements of this Part 14.

14.5 Payment of Premiums. Generator 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.

14.6 No Waiver of Liability. The provisions requiring Generator to acquire and maintain insurance under this PPA will not be construed as a waiver, restriction, or limitation of any liability imposed on Generator under this PPA, whether or not it 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 Generator, any payments due as a result of such liability will be made first from the proceeds of such policies.

PART 15. INDEMNIFICATION

15.1 Scope of Indemnity. Generator expressly agrees to indemnify, hold harmless, and defend GPC and its Representatives (each an "**Indemnified Party**") against all claims, liabilities, fines, costs, or expenses (on an After-Tax Basis) imposed by Governmental Authorities or arising from loss, damage, or injury to the person or property of third parties in any manner directly or indirectly related to: (i) the development, construction, use, ownership, or operation of the Facility; (ii) acts or omissions of Generator or its Representatives in connection with the performance of, or failure to perform, Generator's obligations or representations, warranties, or covenants under this PPA (including any failure to comply with any Consent or Legal Requirement) or any agreement with another offtaker of the Facility; (iii) a representation or warranty of Generator (or its Affiliate) being false or misleading in any material respect when made or when deemed made; (iv) activities (including prior uses of third parties) on Generator's side of the POI; or (v) any negligence or willful misconduct of Generator or its Representatives, except to the extent the loss, damage, or injury is the result of the negligence or willful misconduct of GPC.

15.2 Notice of Proceedings. An Indemnified Party seeking indemnification under this PPA must promptly notify Generator of any claim or proceeding in respect of which it is to be indemnified. The notice must be given as soon as reasonably practicable after the Indemnified Party becomes aware of the claim or proceeding. Failure to give the notice will not excuse an indemnification obligation except to the extent failure to provide notice prejudices Generator. Generator will assume the defense thereof with counsel designated by Generator; if the defendants in any such action include both the Indemnified Party and Generator and the Indemnified Party reasonably concludes that there may be legal defenses available to it that are different from or additional to, or inconsistent with, those available to Generator, the Indemnified Party will have the right to select and be represented by separate counsel, at the expense of Generator. If Generator fails to assume the defense of a claim, the indemnification of which is required under this PPA, the Indemnified Party may, at the expense of Generator, contest, settle, or pay such claim, except that settlement or full payment of any claim may be made only with Generator's consent or, absent such consent, written opinion of the Indemnified Party's counsel that the claim is meritorious or warrants settlement.

PART 16. FORCE MAJEURE

16.1 No Breach or Liability; Suspension of Performance. If a Force Majeure Event occurs, subject to compliance with Section 16.2 (*Notice of Force Majeure Event*) and Section 16.3 (*Mitigation*), the affected Party will be excused from performance of its obligations under this PPA, other than payment obligations that accrued before the declaration of the Force Majeure Event, and will not be construed to be in default in respect of the obligations to the extent that, and for so long as, failure to perform is due to a Force Majeure Event. However, the suspension of performance due to a Force Majeure Event will be of no greater scope and of no longer duration than is required by the Force Majeure Event. Notwithstanding anything in this PPA to the contrary, no Force Majeure Event will extend this PPA beyond its stated Term.

> **16.1.1. RCOD Extension Upon Force Majeure Event.** If a Force Majeure Event directly and substantially impacts a critical-path item on the Milestone Schedule and as a result prevents Generator 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, except that, as a condition to any extension of the RCOD, Generator must comply with Section 16.2 (*Notice of Force Majeure Event*) and Section 16.3 (*Mitigation*), including Generator undertaking all commercially reasonable efforts to avoid, overcome, or otherwise mitigate the delay by revising, rearranging, expediting, and accelerating the Milestone Schedule.

16.2 Notice of Force Majeure Event. Following the occurrence of a Force Majeure Event, and as a condition to relief under Section 16.1 (*No Breach or Liability; Suspension of Performance*), the affected Party must give the

other Party notice thereof, followed promptly by written notice (and all relevant documentation) if the first notice is not written, as promptly as possible after the Party becomes aware of the Force Majeure Event, demonstrating the existence and describing the particulars of the Force Majeure Event, including an analysis of the number of Days the Force Majeure Event has or will delay the performance of its obligations or satisfaction of any conditions under this PPA (including, if Generator is the affected Party, Generator must provide GPC with information reasonably required to determine the amount of the reduction of the generating capability of the Facility), and discussing and demonstrating any actions taken and being taken to avoid or minimize the effect of, and rectify, the Force Majeure Event. 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 a Force Majeure Event. The burden of proof as to whether a Force Majeure Event has occurred and as to the impact of a Force Majeure Event will be upon the affected Party.

16.3 Mitigation. The affected Party must comply with the following requirements as a condition to the affected Party's right to relief under Section *16.1 (No Breach or Liability; Suspension of Performance*) due to a Force Majeure Event: (i) the affected Party must continue to perform its obligations under this PPA to the extent not affected by the Force Majeure Event; (ii) the affected Party must remedy its inability to perform as soon as reasonably practicable, except that this Section 16.3 (*Mitigation*) will not require the settlement of any non-site specific strike, walkout, lockout or other general labor dispute on terms that, in the sole judgment of the affected Party, are contrary to its interest; and (iii) when the affected Party can resume performance of its obligations under this PPA, the affected Party must promptly provide written notice to the other Party, promptly resume the performance, and provide the other Party with a written certification from an independent, registered engineer reasonably acceptable to the other Party that the Force Majeure Event has been cured.

16.4 Extended Force Majeure Events.

16.4.1. Force Majeure Remedy Plan. If the affected Party has reason to believe that a suspension of performance due to a Force Majeure Event will continue for a period of six Months or longer following the initial suspension of performance resulting from the Force Majeure Event (an "**Extended Force Majeure Event**"), the affected Party must notify the other Party promptly and must submit a "Force Majeure Remedy Plan" to the other Party within 30 Days afterwards. In addition, if the other Party has reason to believe that a Force Majeure Event will be an Extended Force Majeure Event, the other Party may request that the affected Party submit a "Force Majeure Remedy Plan," which the affected Party must submit to the requesting Party within 30 Days after the request. A Force Majeure Remedy Plan will set forth a plan and schedule for remedial measures (including necessary repairs, improvements, and changes to operations, as applicable) to cure the effects of the Force Majeure Event to enable the affected Party to resume full performance of the suspended obligations under this PPA as soon as reasonably practicable.

16.4.2. Monthly Status Reports During Force Majeure Remedy Plan. While a Force Majeure Remedy Plan is in effect, the affected Party must provide Monthly status reports to the other Party regarding the implementation of the Force Majeure Remedy Plan, any other measures to remedy the Force Majeure Event, any changes to the Force Majeure Remedy Plan, and the expected remaining duration of the suspended performance, and must provide any additional relevant information as may be reasonably requested by the other Party. The affected Party must modify the Force Majeure 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.

16.4.3. Termination Due To Force Majeure Event. The Party not prevented from performing its obligations due to the Force Majeure Event may terminate this PPA effective upon 10 Days' prior written notice to the affected Party if: (i) the affected Party fails to provide a Force Majeure Remedy Plan as required by this Section 16.4 (*Extended Force Majeure Events*); or (ii) the affected Party fails to carry out the Force Majeure 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 obligations under this PPA 12 Months following the initial suspension of performance resulting from the Force Majeure Event. For the purposes of subsection (iii) of this Section 16.4.3 (*Termination Due to Force Majeure Event*), the 12-Month period need not be continuous 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.

16.4.4. No Further Liability or Obligation Following Termination. Upon any termination of this PPA as provided in Section 16.4.3 (*Termination Due To Force Majeure Event)*, the Parties will have no further liability or obligation to each other except for any obligation arising before the date of the termination.

PART 17. DEFAULT AND REMEDIES

17.1 Default by Generator. The occurrence of any of the following events will constitute an Event of Default by Generator:

17.1.1. Representation or Warranty Breach. Any representation or warranty made by Generator in this PPA or in any certificate or other document delivered to GPC pursuant hereto proves to be incorrect in any material respect when made, unless Generator 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 notice thereof has been given to Generator by GPC (unless the cure is not capable of being effected within the 30-Day period, in which case Generator will have an additional 30-Day period in which to perform the cure) and the cure removes any material adverse effect on GPC of the representation or warranty having been incorrect.

17.1.2. Involuntary Bankruptcy or Insolvency. (A) Generator has a petition filed against it that is not stayed, withdrawn, or dismissed within 120 Days after the filing, under any applicable federal or state bankruptcy, insolvency, reorganization, or other similar law or any other case or proceeding to be adjudicated a bankrupt or insolvent; or (B) a court having jurisdiction enters: (i) a decree or order for relief in respect of Generator 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 Generator, adjudicating Generator bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment, or composition of or in respect of Generator under any applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator, or other similar official of Generator or of any substantial part of its affairs.

17.1.3. Voluntary Bankruptcy or Insolvency. Generator: (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 a bankrupt or insolvent; (ii) consents to the entry of a decree or order for relief in respect of Generator 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 that, if granted, would have the effect of relieving Generator 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 Generator 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.

17.1.4. Guaranty Breach. Generator fails to comply or cause compliance with the Generator Performance Security requirements of Section 7.1 (*Generator Performance Security*), or Generator Guarantor breaches any of its obligations under the Generator Guaranty or if any representation or warranty made by Generator Guarantor in the Generator Guaranty proves to be incorrect in any material respect when made, unless any of the foregoing is cured by the end of the second Business Day following receipt of a written notice from GPC of a failure under this Section 17.1.4.

17.1.5. Material Breach of Agreement. Generator fails to perform or observe any material obligation of Generator under this PPA, other than those obligations specifically addressed in Section 17.1 (*Default by Generator)*, 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 the 30-Day period, in which case Generator will have an additional 30-Day period in which to perform the cure.

17.1.6. Assignment or Change of Control. Generator violates the requirements of Part 19 *(Assignment and Transfers of Interest*) through an assignment or transfer of this PPA or an ownership interest in the Facility or through a Change of Control Transaction.

17.1.7. Failure to Pay GPC. Generator fails to pay GPC any undisputed amount payable by Generator to GPC under this PPA for 15 Days after the same has become due and Generator fails to cure the failure to pay within 15 Days after receipt of written demand therefor from GPC.

17.1.8. Unsatisfactory Availability Percentage. The Availability Percentage (as defined below) is below 60% for any (i) one Summer Season, or (ii) one Winter Season, or (iii) six consecutive Months, except that Generator may, within 15 Days after the end of such Season or six-Month period, as applicable, submit a cure plan that is reasonably acceptable to GPC and is expected to resolve the cause of the

unsatisfactory Availability Percentage as soon as practicable, but in no event later than 180 Days from the end of such Season or six-Month period, as applicable. If Generator fails to submit a cure plan in a timely manner or fails to diligently pursue implementation of the cure plan, or if the unsatisfactory Availability Percentage is not, in fact, cured by the end of the 180-Day period, then GPC will have the right to declare an Event of Default. The cause of the unsatisfactory Availability Percentage will be cured only if (a) Generator can resume performance of its obligations under this PPA and provides GPC with a written certification reasonably acceptable to GPC that the cause of the unsatisfactory Availability Percentage has been cured, and (b) the Monthly Availability Percentage determined for the first full Month following GPC's receipt of the certification of successful completion of the cure plan is at least 60%. For the purposes of this Section 17.1.8 (*Unsatisfactory Availability Percentage*), the "Availability Percentage" will mean the percentage calculated for the relevant period using the MAP formulas shown in **Exhibit A** Section B (*Calculation of Monthly Availability Percentage*), with the calculation applied to the total relevant period.

17.1.9. Unsatisfactory Tested Reliable Capacity. Notwithstanding any other provision of this PPA, if at any time after the Delivery Commencement Date, the Tested Reliable Capacity of the Facility, as determined pursuant to a Performance Test, minus the Excluded Capacity is less than 70% of the Nominal Capability and Generator fails to (i) submit to GPC a cure plan reasonably acceptable to GPC for such inadequate Tested Reliable Capacity within 10 Days after determination by the Performance Test of the inadequate Tested Reliable Capacity, and (ii) cure the inadequate Tested Reliable Capacity within a reasonable period of time, not to exceed 120 Days after the completion of the Performance Test ("**Cure Period**"), except that the Cure Period may be extended under Section 17.1.9.A (*Cure Period)*. GPC will have the right to declare an Event of Default if Generator 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 17.1.9.A (*Cure Period*), (b) diligently implement the cure plan (including implementation of the actions as GPC may reasonably request), and (c) cure the inadequate Tested Reliable Capacity within the Cure Period (as the Cure Period may be extended under Section 17.1.9.A (*Cure Period*)) as set forth in Section 17.1.9.B (*Cure*).

A. Cure Period. If Generator establishes a cure plan under Section 17.1.9 (*Unsatisfactory Tested Reliable Capacity*) but requires a Cure Period of more than 120 Days to cure the inadequate Tested Reliable Capacity, the Cure Period will be extended for a reasonable additional period of time, which extension will not in any case exceed 420 Days, if Generator satisfies all of the following conditions: by 15 Days before the expiration of the 120-Day Cure Period, Generator must provide to GPC (I) a revised cure plan setting forth a reasonable extension of the Cure Period, not to exceed 420 Days, which revised cure plan and extension will be reasonably acceptable to GPC, and (II) a written certification reasonably acceptable to GPC confirming that in order for Generator to cure the inadequate Tested Reliable Capacity Generator must be afforded the reasonable additional period of time. For the avoidance of doubt, the total duration of the Cure Period, as extended, will not exceed 540 Days.

B. Cure. The cause of the inadequate Tested Reliable Capacity of the Facility will be cured under Section 17.1.9 (*Unsatisfactory Tested Reliable Capacity*) only if (I) Generator provides GPC with a written certification reasonably acceptable to GPC confirming that the inadequate Tested Reliable Capacity has been cured, and (II) the inadequate Tested Reliable Capacity is increased to a value such that the Tested Reliable Capacity of the Facility, as demonstrated by the most recent Performance Test, minus the Excluded Capacity is equal to or greater than 70% of the Nominal Capability as demonstrated by the most recent Performance Test. Throughout the duration of any Cure Period, the Designated Capacity will be determined pursuant to **Exhibit A** Section A.3 (*Designated Capacity*) based on the most recent Performance Test.

17.1.10. Abandonment or Failure to Achieve Commercial Operation. Generator abandons the development or construction of the Project before the Commercial Operation Date, fails to achieve Commercial Operation of the Project (including the Facility) by nine Months after the RCOD, or notifies GPC that Generator has reasonably determined that Generator will not achieve Commercial Operation or that Commercial Operation will not be achieved by nine Months after the RCOD.

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

17.1.12. Unauthorized Adjustment of Metering System. Generator, or any of its Affiliates, or any of their employees, contractors, subcontractors, agents, or representatives, willfully adjusts the Metering System or the Interconnection Facilities without GPC's written consent and which adjustment has the effect of falsely increasing the amounts owed by GPC under this PPA.

17.1.13. Covenant Breach. Generator fails to comply with any covenant in this PPA not otherwise addressed in this Part 17, unless Generator promptly commences and diligently pursues action to cure the failure within 30 Days after notice thereof has been given to Generator by GPC (unless the cure is not capable of being effected within such 30-Day period, in which case Generator 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, such 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 the covenant. However, no Event of Default by Generator will occur under this Section 17.1.13 (*Covenant Breach*) unless GPC cooperates with Generator during the cure period and 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 Generator does not constitute a VIE as a result of this PPA.

17.1.14. Consolidation. GPC is required by any Legal Requirement or any accounting standard, including those implemented or administered by FASB, to consolidate Generator or any of its Affiliates or permitted assigns as a VIE in GPC's or any of its Affiliates' financial statements, and such condition continues for a period of 30 Days after written notice thereof from GPC, unless the cure is not capable of being effected within the 30-Day period, in which case Generator will have an additional 30-Day period in which to commence the cure and afterwards diligently pursue the cure and complete the cure within 60 Days. GPC may seek remedies under Section 17.3 (*Remedies*) for a Generator Event of Default caused under this Section 17.1.14 (*Consolidation*), except that, upon termination of this PPA, if Generator can clearly demonstrate that the Generator Event of Default was not caused by any direct or indirect action by Generator, Generator will have no further liability or obligation to GPC except for any obligation arising before the date of the termination.

17.1.15. Material Violation of Legal Requirement. Generator violates any Legal Requirement and such violation would have a material adverse effect on Generator's ability to perform under this PPA and the 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 Generator will have an additional 30-Day period in which to commence the cure and afterwards diligently pursue the cure and complete the cure within 60 Days and the cure removes any material adverse effect on Generator's ability to perform under this PPA. However, Generator will be deemed not to have committed an Event of Default in this PPA if Generator 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 Legal Requirements has been stayed.

17.2 Default by GPC. The occurrence of any of the following events will constitute an Event of Default by GPC:

17.2.1. Failure to Pay Generator. GPC fails to pay any undisputed amount payable by GPC to Generator under this PPA for 15 Days after the same has become due and GPC fails to cure the failure to pay within 15 Days after receipt of written demand therefor from Generator.

17.2.2. Material Breach of Agreement. GPC fails to perform or observe any material obligation of GPC under this PPA, other than those obligations included in this Section 17.2 (*Default by GPC*), which failure materially and adversely affects the ability of Generator or GPC to perform their respective obligations under this PPA and continues for a period of 30 Days after written notice thereof from Generator (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).

17.2.3. Representation or Warranty Breach. Any representation or warranty made by GPC in this PPA or in any certificate or other document delivered to Generator pursuant hereto 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 notice thereof has been given to GPC by Generator (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 Generator of the representation or warranty having been incorrect.

17.2.4. Involuntary Bankruptcy or Insolvency. (A) GPC has a petition filed against it that is not stayed, withdrawn, or dismissed within 120 Days after the filing, under any applicable federal or state bankruptcy, insolvency, reorganization, or other similar law or any other case or proceeding to be adjudicated a bankrupt or insolvent; or (B) 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 in respect of 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.

17.2.5. Voluntary Bankruptcy or Insolvency. 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 a 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.

17.2.6. Assignment. GPC violates the requirements of Part 19 (*Assignment and Transfers of Interest*) through an assignment or transfer of this PPA.

17.2.7. Material Violation of Legal Requirement. GPC violates any Legal Requirement, 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 written notice from Generator, 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 commence the cure and afterwards diligently pursues the cure and completes the cure within 60 Days, and the cure removes any material adverse effect on GPC's ability to perform under this PPA. However, GPC will be deemed not to have committed an Event of Default in this PPA if GPC 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 Legal Requirement has been stayed.

17.3 Remedies.

17.3.1. Non-Defaulting Party Remedies. If an Event of Default occurs during the Term, the non-defaulting Party (the "**Non-Defaulting Party**") may, for so long as the Event of Default is continuing, subject to the provisions of Part 20 (*Dispute Resolution*), take one or more of the following actions: (i) establish a date (which date will be no more than 10 Business Days after the Non-Defaulting Party delivers written notice of the date to the defaulting Party (the "**Defaulting Party**")) on which this PPA will terminate (the "**Early Termination Date**"), (ii) proceed by appropriate proceedings under this PPA at law, in equity, or otherwise, to protect and enforce its right to damages (actual or liquidated) or, where the Event of Default is one other than the failure to pay money, equitable relief, including specific performance, and (iii) immediately cease performance or withhold any payments, or both, due in respect of this PPA.

17.3.2. Termination Payment. If an Early Termination Date has been established, and the Non-Defaulting Party has not successfully pursued an action for specific performance or is not excused from the payment of damages under Section 17.1.14 (*Consolidation*), the Non-Defaulting Party will in good faith calculate its Gains, Losses, and Costs resulting from the termination of this PPA, aggregate the Gains, Losses, and Costs into a single net amount, and notify the Defaulting Party. If the Non-Defaulting Party's aggregate Losses and Costs exceed its aggregate Gains, the Defaulting Party will, unless it disagrees with the calculation, within 15 Business Days after receipt of the notice, pay the net amount (the "**Termination Payment**") to the Non-Defaulting Party, which amount will bear interest at the Interest Rate from the Early Termination Date until paid. If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this PPA, the Non-Defaulting Party may retain the Gains. If the Defaulting Party disagrees with the calculation of the Termination Payment, the issue will be resolved under the provisions of Part 20 (*Dispute Resolution*) applicable to Termination

Payment disputes, and the resulting Termination Payment will be due within three Business Days after the award. However, notwithstanding anything in this PPA to the contrary, for any termination of this PPA by GPC under Section 17.3.1 *(Non-Defaulting Party Remedies*) for an Event of Default by Generator under Section 17.1.10 (*Abandonment or Failure to Achieve Commercial Operation*) or Section 17.1.11 (*Failure to Obtain Air Permit)*, rather than the application of a calculation of Gains, Losses, and Costs resulting from the termination of this PPA, Generator will pay to GPC the damages prescribed by Section 8.3 *(Failure to Achieve Commercial Operation by the Required Commercial Operation Date)* or Section 8.2 (*Permitting*), respectively.

17.3.3. Determination of Losses and Costs. Subject to the provisions of Section 11.3.1 (*Calculation Upon Generator Event of Default*) the Gains, Losses, and Costs will be determined by comparing the cost under this PPA of the capacity and energy that would be available under this PPA for the remainder of the Term had this PPA not been terminated to the market price of capacity and energy of equivalent reliability (including equivalent fuel mix and Ancillary Services) for the remaining Term (had this PPA not been terminated). For the avoidance of doubt, nothing in Part 7 (*Performance Security*) is intended to limit liability under this Section 17.3 (*Remedies*). To ascertain the market price, the 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 under this PPA, in either case made by bona fide third parties (including offers received by the Non-Defaulting Party in response to any request for proposals for capacity and energy contracts), all adjusted for the length of the remaining Term (had this PPA not been terminated) and differences in locational basis (including costs of transmission investments and transmission service), reliability, and any other considerations affecting value. Neither Party will be required to enter into replacement transactions to determine the Termination Payment. As used in Sections 17.3.2 (*Termination Payment*) and 17.3.3 (*Determination of Losses and Costs*): (i) "Costs" means brokerage fees, commissions, and other similar transaction costs and expenses reasonably incurred by the Party either in terminating any agreement that it has entered into to fulfill its obligations in this PPA or entering into new agreements that replace this PPA, and attorneys' fees, if any, incurred in connection with 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.

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

17.5 Limitation of Remedies, Liability and Damages. **THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS PPA SATISFY THE ESSENTIAL PURPOSES OF THIS PPA FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY WILL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED IN THIS PPA, THE OBLIGOR'S LIABILITY WILL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES WILL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY PROVIDED IN THIS PPA, AND EXCEPT FOR THE PAYMENT OF LIQUIDATED DAMAGES SPECIFIED IN THIS PPA, NEITHER PARTY NOR THEIR AFFILIATES WILL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS, OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT, OR CONTRACT, EXCEPT THAT THIS SECTION WILL NOT APPLY TO LIMIT THE LIABILITY OF A PARTY FOR THIRD PARTY INDEMNITY OBLIGATIONS OR WHOSE ACTIONS GIVING RISE TO SUCH LIABILITY CONSTITUTE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; PROVIDED, FURTHER, THAT IT IS EXPRESSLY AGREED THAT THE LOST VALUE OF ANY INVESTMENT TAX CREDIT, PRODUCTION TAX CREDIT, 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 THE ACTUAL DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THE LIQUIDATED DAMAGES DO NOT CONSTITUTE A PENALTY AND ARE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS PPA, IN NO EVENT WILL GPC'S LIABILITY TO GENERATOR 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 ENERGY PAYMENTS FOLLOWING TERMINATION THAT WOULD HAVE BEEN PAYABLE TO GENERATOR UNDER THIS PPA HAD THE PPA REMAINED IN EFFECT THROUGH THE END OF THE TERM.

17.6 Disclaimer of Warranties. **THERE ARE NO WARRANTIES UNDER THIS PPA EXCEPT TO THE EXTENT SPECIFICALLY SET FORTH IN THE TEXT OF THIS PPA. THE PARTIES SPECIFICALLY DISCLAIM AND EXCLUDE ALL IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE.**

17.7 No Interruption. Except as otherwise provided in this PPA, unless and until this PPA has been terminated, neither Party will, as a result of any breach or alleged breach by the other Party, refuse to deliver, or suspend or delay any delivery of, energy or associated capacity to be provided under this PPA; refuse to take energy to the extent required under this PPA; suspend, delay, or refuse to make any of the payments required under this PPA.

17.8 Duty to Mitigate. Notwithstanding any other provision of this PPA, each Party has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance.

PART 18. CHANGE OF LAW

18.1 New GHG Law.

18.1.1. Responsibility for GHG Charges. In the event of the enactment of a New GHG Law by any Governmental Authority, Generator will be responsible at its own expense for any GHG Charges arising from or attributed to any New GHG Law, and in no event will such GHG Charges be paid for, reimbursed by, or in any other way passed on to, GPC. Generator will be required to use all reasonable steps to mitigate the cost or amount of such GHG Charges, including GHG Credits, if any, under Section 18.1.2 (*GHG Credits*).

18.1.2. GHG Credits. Generator must use GHG Credits including those allocated to or for the Facility, or otherwise granted to or received by Generator for the Facility, to avoid or mitigate GHG Charges under Section 18.1.1 (*Responsibility for GHG Charges*). In addition, if Generator purchases, is allocated, is issued, or may obtain GHG Credits for a portion of or its entire fleet of generating units, Generator must, at no cost to GPC, reserve a proportional amount of such GHG Credits to mitigate any GHG Charges under Section 18.1.1 (*Responsibility for GHG Charges*). For purposes of this Section 18.1.2 (*GHG Credits*), all references to "Generator" will be deemed to include Generator's Affiliates or other entity to which GHG Credits may be available for use by or for the Facility. The proportional amount of GHG Credits will be calculated based on the method, formula, or other similar calculation by which the Governmental Authority used to determine the amount of the GHG Credits attributable to each generating unit compared to the sum of all GHG Credits for all generating units of Generator. Generator must provide GPC with all information reasonably requested by GPC to document GHG Credits available or applicable to Generator and Generator's compliance with this Section 18.1.2 (*GHG Credits*).

18.1.3. Restrictions. Generator must not transfer, apply, use, or provide any other Person's rights regarding GHG Credits that Generator is required to use to mitigate GHG Charges under Section 18.1.2 (*GHG Credits*). If and to the extent that any GHG Credits for an Annual Period addressed by Section 18.1.2 (*GHG Credits*), prorated for the purposes of this Section 18.1.3 (*Restrictions*) for the respective Annual Period based on the Delivered Energy divided by the total energy generated by the Facility during such Annual Period, are in excess of those required for the production of Delivered Energy in an Annual Period, upon request by GPC and as permitted by Legal Requirements, Generator must transfer such GHG Credits to GPC at no additional cost to GPC.

18.2 Change of Law.

18.2.1. Change of Law Notice. If Generator determines that any Change of Law Capital Expenditures will be incurred as a result of a Change of Law (including costs less than the Threshold Amount),

Generator must notify GPC of a Change of Law by six Months after the enactment of the applicable Change of Law ("**Change of Law Notice**"). The Change of Law Notice must include a discussion of the relevant Change of Law and its applicability to the Facility and the delivery of energy to the POI under this PPA, Generator'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 reasonable documentation of Generator's determination of Change of Law Capital Expenditures (or estimate of Change of Law Capital Expenditures if actual costs are not known), and Generator must provide periodic updates to GPC regarding Generator's compliance plan and Change of Law Capital Expenditures. Generator must provide any additional relevant information as may reasonably requested by GPC.

18.2.2. Excess Change of Law Capital Expenditures.

A. If one or more Change of Laws would cause Generator to incur Change of Law Capital Expenditures (in the aggregate), as prorated in accordance with the definition of Change of Law Capital Expenditures, in excess of four dollars per kilowatt ($4.00/kW) multiplied by the Nominal Capability in kW in any given Annual Period (the "**Threshold Amount**"), and, if Generator submitted a Change of Law Notice(s) for the Change of Law(s) under Section 18.2.1 (*Change of Law Notice*), Generator may, through written notice to GPC ("**Excess Capital Expenditures Notice**"), request GPC's approval, in GPC's sole discretion, of Generator's recovery of the incremental amount of capital expenditures in excess of the Threshold Amount (such excess amount, the "**Excess Change of Law Capital Expenditures**") through an adjustment to the Energy Price, except that no adjustment will be allowed to the Energy Price for any calendar year before Generator actually incurred Excess Change of Law Capital Expenditures. For the avoidance of doubt, the prorated amount of Change of Law Capital Expenditures that corresponds to the Excluded Capacity will not accrue to the Threshold Amount and will not be included in any Excess Change of Law Capital Expenditures and Generator otherwise may not seek recovery of the prorated amount of Change of Law Capital Expenditures that corresponds to the Excluded Capacity. Generator may not seek recovery of any Change of Law Capital Expenditures for which Generator did not submit a Change of Law Notice under Section 18.2.1 *(Change of Law Notice*). The Excess Capital Expenditures Notice will supplement the Change of Law Notice, including addressing in detail the Excess Change of Law Capital Expenditures and setting forth Generator's calculations for the proposed increase in the Energy Price, as determined under this Section 18.2.2. Generator will be responsible for demonstrating that Generator's proposed plan for complying with the Change of Law is reasonable and conforms with Prudent Industry Practices and that the Excess Change of Law Capital Expenditures are reasonable, consistent with Prudent Industry Practices, required for compliance with the Change of Law, and otherwise in compliance with Section 18.2 (*Change of Law*). Generator must promptly provide any and all other information reasonably requested by GPC in connection with GPC's analysis of and response to Generator's Excess Capital Expenditures Notice.

B. For purposes of calculating any adjustment to the Energy 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.

18.2.3. GPC Election Notice. By 365 Days after receipt of Generator's Excess Capital Expenditures Notice, GPC must inform Generator by written notice of whether GPC, in GPC's sole discretion, accepts or rejects Generator's proposed adjustment to the Energy Price to recover Excess Change of Law Capital Expenditures ("**GPC Election Notice**"); if GPC does not notify Generator of GPC's decision within the 365-Day period, GPC will be deemed to have rejected Generator's proposed adjustment to the Energy Price. For the avoidance of doubt, under no circumstances will GPC's rejection of a proposed adjustment to the Energy Price and Generator's recovery of Excess Change of Law Capital Expenditures constitute an Event of Default under Part 17 (*Default and Remedies*) of this PPA.

18.2.4. Generator Response Notice.

A. If GPC, in its sole discretion, rejects Generator's request, or if GPC is deemed under Section 18.2.3 (*GPC Election Notice*) to have rejected Generator's request, to recover Excess

Change of Law Capital Expenditures addressed in Generator's Excess Capital Expenditures Notice, Generator must provide written notice to GPC (the "**Generator Response Notice**") by the Generator Response Deadline of whether Generator elects to (i) pay for the 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 Generator Response Notice (which date will be no earlier than 365 Days after the date the Generator Response Notice is provided to GPC). The "**Generator Response Deadline**" is the date that is 30 Days after the earlier of (a) the date of the GPC Election Notice, or (b) 365 Days after GPC's receipt of Generator's Excess Capital Expenditures Notice if GPC did not provide a GPC Election Notice. If Generator does not provide a Generator Response Notice to GPC by the Generator Response Deadline, Generator will be deemed to have waived the option to terminate this PPA as a result of the relevant Change of Law(s) and Change of Law Capital Expenditures and will be deemed to have elected to pay for the Change of Law Capital Expenditures (including Excess Change of Law Capital Expenditures).

B. Notwithstanding anything in this PPA to the contrary, if Generator elects to terminate this PPA in a Generator Response Notice provided to GPC by the Generator Response Deadline, GPC will have the right to elect by written notice, delivered to Generator within 60 Days after such Generator Response Notice, to accept Generator's proposed adjustment to the Energy Price as set forth in Generator's Excess Capital Expenditures Notice to recover Excess Change of Law Capital Expenditures, and in such case this PPA will not terminate and will continue in full effect with the adjustment to the Energy Price. If GPC does not provide such written notice within the 60-Day period, GPC will be deemed to have waived the election and this PPA will terminate in accordance with the Generator Response Notice on the date set forth in the Generator Response Notice (provided the termination date will be no earlier than 365 Days after the date the Generator Response Notice is provided). Generator will be responsible for all Change of Law Capital Expenditures incurred before the effective date of any such termination. Following the effective date of any such termination, neither Party will have any further liability to the other Party except for any obligations incurred before the effective date of the termination.

18.2.5. No Further Energy Price Adjustment. The Parties acknowledge that, except as provided in Sections 18.2.2 (*Excess Change of Law Capital Expenditures*), 18.2.3 (*GPC Election Notice*), and 18.2.4 (*Generator Response Notice*), the Energy Price will not be adjusted as a result of a Change of Law or Change of Law Capital Expenditures. If GPC has elected under Section 18.2.3 (*GPC Election Notice*) or Section 18.2.4 (*Generator Response Notice*) to accept Generator's proposed adjustment to the Energy Price to recover Excess Change of Law Capital Expenditures, Generator may not seek any additional adjustment to the Energy Price for the Change of Law(s) addressed in the GPC election (including for any additional or different Change of Law Capital Expenditures arising from the Change of Law(s)). For the avoidance of doubt, any election by GPC under Section 18.2.3 (*GPC Election Notice*) or Section 18.2.4 (*Generator Response Notice*) to allow Generator 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 the GPC election.

18.2.6. Limits to GPC Financial Responsibility. Generator acknowledges and agrees that, except as provided in Part 18 (*Change of Law*): (i) GPC will not be responsible for any costs or expenses incurred by Generator in connection with the Facility or the performance of Generator's obligations under this PPA that result from new or different or other changes in Legal Requirements (including any change in an interpretation of any Legal Requirement); and (ii) in no event will the payments required to be made by GPC under this PPA be increased as a result of any costs or expenses that Generator incurs as a result of new or different or other changes in Legal Requirements (including any change in an interpretation of any Legal Requirement).

18.3 No Dedication. No undertaking by Generator under this PPA is intended to constitute the dedication of the Facility or any part thereof to the public or affect the status of Generator as an independent entity and not a public utility or public service company.

PART 19. ASSIGNMENT AND TRANSFERS OF INTEREST

19.1 Assignment and Assumption of Obligations.

19.1.1. Generator.

A. Generator may not assign this PPA or any portion thereof to any Person without the prior written consent of GPC. Any proposed assignee of this PPA must (i) agree to assume assignor's obligations under this PPA, and (ii) deliver to GPC the assurances regarding its creditworthiness and its ability to perform all obligations of Generator under this PPA, as GPC may reasonably request. Any assignment of this PPA made in compliance with the preceding sentences will constitute an acceptance and assumption of the obligations by the assignee.

B. Notwithstanding Section 19.1.1.A (*Assignment and Assumption of Obligations: Generator)*, Generator may, without the consent of GPC, assign this PPA to a lender for collateral security purposes in connection with any financing or the refinancing of the Facility, and, in connection therewith, GPC agrees to execute a reasonable written consent to the collateral assignment in a form acceptable to GPC should the financing party reasonably request such consent, except that the collateral assignment will not place any limitation on GPC's rights under this PPA or expand the liability, risks, or obligations imposed on GPC under this PPA.

C. Upon reasonable request to GPC, GPC agrees to execute a written confirmation that, if true, to the best of GPC's knowledge when the request is made, Generator is not in default of this PPA.

19.1.2. GPC. GPC may not assign this PPA or any portion thereof to any Person other than a Creditworthy Affiliate without the prior written consent of Generator and approval by the Commission.

19.2 Other Restrictions. Generator agrees that, without the prior written consent of GPC, there will be no (i) assignment or transfer of any interest in the Facility, (ii) Change of Control Transaction regarding Generator, or (iii) delegation by Generator of the operational responsibility for the Facility.

19.3 Reimbursement for GPC's Costs from Transfers or Assignments. Generator agrees that, if Generator assigns or transfers an interest in the Facility or this PPA, as such transactions are described in Section 19.1 (*Assignment and Assumption of Obligations*) and Section 19.2 *(Other Restrictions*), Generator will pay GPC the amount of twenty-five thousand dollars ($25,000) per occurrence for each and any proposed transaction and will pay to GPC the amount of ten thousand dollars ($10,000) per occurrence for each and any request for an estoppel under Section 19.1.1.C (*Assignment and Assumption of Obligations: Generator)*. For the avoidance of doubt, if Generator requests GPC's consent under Section 19.1.1 *(Assignment and Assumption of Obligations: Generator*) or Section 19.2 *(Other Restrictions*), GPC undertakes drafting of consent documents or amendments to provide the consent, and Generator afterwards fails to consummate the proposed transaction, GPC reserves the right, in its sole discretion, to require Generator to provide reimbursement to GPC under this Section 19.3 (*Reimbursement for GPC's Costs from Transfers or Assignments*).

19.4 General Requirements. Any consent required by Section 19.1 (*Assignment and Assumption of Obligations*) or Section 19.2 *(Other Restrictions*) will not be unreasonably withheld, conditioned, or delayed, except that neither Party will be required to accept any limitation of its rights under this PPA or expansion of the liability, risks, or obligations imposed on it under this PPA (including changes in accounting treatment). It will be reasonable for either Party to condition its consent required by Part 19 *(Assignment and Transfers of Interest*) on the execution of amendments to this PPA that are reasonably determined by such Party to be necessary to preserve the value and protection afforded to such Party under this PPA. It will be a condition of any assignment, transfer, Change of Control Transaction, or other disposition regarding this PPA and the Facility under Section 19.1 (*Assignment and Assumption of Obligations*) or Section 19.2 *(Other Restrictions*) that Generator Performance Security required under Section 7.1 (*Generator Performance Security*), if applicable, will remain in place notwithstanding the 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 before the disposition. Any purported assignment, transfer, Change of Control Transaction, or other disposition regarding this PPA and the Facility that is not in compliance with the applicable provisions of Section 19.1 (*Assignment and Assumption of Obligations*) or Section 19.2 (*Other Restrictions*), as the case may be, will be null and void and of no effect.

PART 20. DISPUTE RESOLUTION

20.1 Notice of Dispute. Either Party ("**Disputing Party**") may 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 of dispute will describe with specificity the basis for the Disputing Party's belief and may propose a resolution of the dispute ("**Notice of Dispute**").

20.2 Dispute Resolution, Arbitration.

20.2.1. Except as provided in Section 17.5 (*Limitation of Remedies, Liability and Damages*), any dispute or claims arising under this PPA that cannot be resolved by the Parties through negotiation by the Parties' managers within thirty (30) Days after the Notice of Dispute will be referred to senior executives (president or a vice president) of the Parties for resolution, which executives shall have the authority to decide or resolve the matter in dispute. If such senior executives are unable to resolve any such dispute or claim to the mutual satisfaction of the Parties within thirty (30) Days after such matter has been referred to such senior executives by the Parties' managers, then any such dispute or claim shall be resolved in accordance with Section 20.2.2.

20.2.2. In the event the Parties are unable to resolve a dispute as provided in Section 20.2.1, (a) the Parties agree to arbitrate those disputes described in Section 20.2.3 using the procedures provided in such subsection, and (b) in the case of any dispute that is not described in the Section 20.2.3, either Party may pursue its rights and remedies available under other provisions of this PPA.

20.2.3. Arbitration. In the event the dispute concerns the calculation of a Termination Payment pursuant to Section 17.3.2 (*Termination Payment*), or a billing dispute under Section 6.2 (*Billing Disputes and Final Accounting*), then the Parties agree to arbitrate such dispute in accordance with the following procedures:

A. At the request of either Party upon written notice to the other party (a "**Demand**"), the dispute will be finally settled by binding arbitration before a single arbitrator in accordance with the Expedited Procedures of the Commercial Arbitration Rules (the "**Rules**") of the AAA then in effect, except as modified herein. The Demand must include statements of the facts and circumstances surrounding the dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief accompanied by all relevant documents supporting the Demand.

B. The arbitration will be held in Atlanta, Georgia and will be governed by the United States Arbitration Act, 9 U.S.C. §§1 *et seq*.

C. Unless the Parties otherwise agree, the arbitrator selected will have a reasonable degree of expertise in the subject matter of the dispute, will not have provided services to either Party or any of their respective Affiliates within the last five (5) years and will be selected from a national panel of potential arbitrators.

D. The award will be in writing (stating the award and the reasons therefor) and will be final and binding upon the Parties and will be the sole and exclusive remedy between the Parties regarding any claims, counterclaims, issues or accountings presented to the arbitrator. The arbitrator will be authorized in his or her discretion to grant pre-award and post-award interest at commercial rates. Judgment upon any award may be entered in any court having jurisdiction. Each of the Parties consents to service of process by registered mail at its address set forth herein and agrees that its consent to service of process by mail is made for the express benefit of the other Party.

E. This PPA and the rights and obligations of the Parties will remain in full force and effect pending the award in any arbitration proceedings hereunder.

F. Unless otherwise ordered by the arbitrators, each Party will bear its own costs and fees, including attorneys' fees and expenses. The Parties expressly agree that the arbitrators will have no power to consider or award any form of damages barred by Section 17.5, or any other multiple or enhanced damages, whether statutory or common law. With respect to disputes covered by Section 20.2.3, the Parties, to the fullest extent permitted by law, hereby irrevocably waive and exclude any rights of application or appeal or rights to state a special case for the opinion of the courts or any other recourse to the court system other than to enforce the Parties' agreement to resolve disputes in accordance with this Part 20.

G. EACH PARTY UNDERSTANDS THAT IT WILL NOT BE ABLE TO BRING A LAWSUIT CONCERNING ANY DISPUTE THAT MAY ARISE WHICH IS COVERED BY SECTION 20.2.3.

20.3 Injunctive Relief. Notwithstanding any other provision of this Part 20 (*Dispute Resolution*), the Parties acknowledge that an award of damages may not afford complete relief or furnish an adequate legal remedy as between them (such as when Generator's Event of Default arises from Generator'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, a Party will be permitted to seek, under 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 20.3 (*Injunctive Relief)* 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 the 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.

20.4 Continued Performance. The Parties will continue performing their respective obligations under this PPA while the dispute is being resolved, unless and until such obligations are terminated or expire under the provisions of this PPA.

PART 21. MISCELLANEOUS PROVISIONS

21.1 Amendments. This PPA may be amended only by a written instrument duly executed by authorized representatives of GPC and Generator.

21.2 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 assigns.

21.3 Counterparts. This PPA may be executed in several counterparts, each of which will be an original and all of which will constitute a single instrument.

21.4 Notices. Unless otherwise specified, where notice is required by this PPA, the notice must be in writing and will be deemed given: (i) upon receipt, when mailed by United States registered or certified mail, postage prepaid, return receipt requested; (ii) upon the next Business Day, when sent by overnight delivery, postage prepaid using a recognized courier service; or (iii) on the calendar day sent by electronic transmission (including by email) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient. Notice to the respective Parties should be directed as follows:

To Generator:

International Paper Company
6400 Poplar Avenue
Memphis, Tennessee 38197
Attn: Director – Global Sourcing Energy

with a copy to:

International Paper Company
6400 Poplar Avenue
Memphis, Tennessee 38197
Attn: General Counsel – Global Procurement

To GPC:

Georgia Power Company
Capacity Procurement
241 Ralph McGill Blvd.
Atlanta, Georgia 30308
BIN 10196
Email: G2RESCPLAN@southernco.com

with a copy to:

Georgia Power Company Legal Dept.
241 Ralph McGill Blvd.
Atlanta, Georgia 30308
BIN 10180
Attn: Commercial & Transactions

or to such other addressees as may later be designated by the Parties.

21.5 Entire Agreement. This PPA (including the attached **Exhibits A** through **K**, inclusive) constitutes the entire understanding between the Parties and supersedes any previous agreements related to the subject matter of this PPA between the Parties. For clarity, this PPA and the Pre-existing Contract are separate agreements with neither being meant to amend, supersede, or modify the terms of the other agreement. The Pre-existing Contract concerns the sale of energy and capacity related to Excluded Capacity, and this PPA concerns the sale of energy and Ancillary Services related to the Contracted Capacity and Excess Energy. The Parties have entered into this PPA in reliance upon the representations and mutual undertakings contained in this PPA and not in reliance upon any oral or written representations or information provided by one Party to the other Party not contained or incorporated in this PPA.

21.6 Governing Law. This PPA will be governed by and construed in accordance with the laws of the state of Georgia, without giving effect to any conflict of law rules thereof that may direct the application of the laws of another jurisdiction. Regarding those matters that may be referred to the state or federal courts under this PPA, the Parties will submit to the exclusive jurisdiction of either the Fulton County Superior Court in Atlanta, Georgia or the U.S. District Court for the Northern District of Georgia, Atlanta Division, as appropriate.

21.7 Time of Essence; Waiver.

21.7.1. Time of the Essence. Time is of the essence in the performance of obligations under this PPA.

21.7.2. No Waiver. The failure of either Party to enforce any of the provisions of this PPA, or to require performance by the other Party of any of the provisions of this PPA, will in no way be construed to be a waiver of such provisions or in any way to affect the validity of this PPA or any part of this PPA or the right of the Party hereafter to enforce every such provision. 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.

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

21.9 Third Parties. This PPA is intended solely for the benefit of the Parties hereto. Nothing in this PPA will be construed to create any duty, standard of care, or liability to any Person not a Party to this PPA.

21.10 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 to act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

21.11 Severability. If any term or provision of this PPA or the application thereof to any Person, entity, or circumstance were to any extent be invalid or unenforceable, the remainder of this PPA, or the application of the term or provision to Persons, entities, or circumstances other than those that are invalid or unenforceable, will not be affected, and each term and provision of this PPA will be valid and enforceable to the fullest extent permitted by law.

21.12 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 as a result of the preparation, substitution, or other event of negotiation, drafting, or execution of this PPA.

21.13 Confidentiality.

21.13.1. Non-Disclosure. The Parties acknowledge 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: (i) for a period of three years from the date of this PPA for Confidential Information contained in this PPA; and (ii) for a period of three years from the date of disclosure for additional

Confidential Information disclosed during the Term, it will not, and will ensure that its Affiliates, consultants, or advisors do not, without the written consent of the other Party or as otherwise provided in this PPA, disclose to any third party (other than to Affiliates of the disclosing Party or consultants and advisors to the Affiliates and the disclosing Party who need to know the information in connection with the performance of their duties or services for the Affiliates or the disclosing Party), the portions of this PPA, or the terms or provisions of this PPA, or any additional Confidential Information disclosed under the Party's performance of this PPA and identified as Confidential Information at the time of such disclosure, except to the extent that disclosure to a third party is required by law, or by a court or by an administrative agency having jurisdiction over the disclosing Party.

21.13.2. Commission Treatment of Confidential Material. The Parties will seek confidential treatment of the Confidential Information in this PPA from the Commission, but acknowledge that certain terms, conditions, and provisions of this PPA will need to be disclosed in connection with the application for a Commission Certificate. No assurance or commitment is made regarding the ability of GPC to obtain the requested confidential treatment in that proceeding or otherwise.

21.13.3. FERC Treatment of Confidential Material. The Parties will 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.

21.13.4. Public Statements. Any public statement or other announcement by a Party hereto concerning the transaction described in this PPA must be reviewed and agreed upon by the Parties before release, which agreement will not be unreasonably withheld, conditioned, or delayed.

21.14 Agreement Interpretation. Each exhibit, attachment, appendix, schedule, regulatory requirement, policy, procedure, standard, or document attached to or referenced in this PPA (expressly including the *Schedule of Defined Terms*) is incorporated by this reference into, and is integral to, this PPA, as if included in the main body. Defined terms may be singular or plural, as the context requires and, absent express statement otherwise, have the meaning in all PPA documents. In this PPA and in all attached or incorporated PPA documents: (i) "**including**" means "including, but not limited to" or "including, without limitation"; "**include**" means "include, but is not limited to"; (ii) "**or**" means "either or both" ("A or B" means "A or B or both A and B"); (iii) "**e.g.**" means "for example, including, without limitation"; and (iv) if the Party has provided email contact information, "**written**" or "**in writing**" includes email communication, absent express statement otherwise. Reference to: (w) a Party or entity includes any allowed successor or assign; (x) a regulatory authority includes an authority succeeding to the function; and (y) an applicable law, document, policy, procedure, standard, or provision is to the law, document, policy, procedure, standard, or provision as modified or amended, and then effective or current. Captions are for convenience only and do not affect interpretation. Reference to a PPA part by caption (e.g., *Term of Agreement*) or number (e.g., Part 2) includes all separate sections (e.g., 2.3 (*Conditions to Performance*) and clauses (e.g., 2.3.1 (*FERC Acceptance*)) within that part and reference to a section by caption or number includes all separate clauses within that section. Unless the context clearly requires otherwise, use of the term "will" will be interpreted to define contractual obligations, requirements, and prohibitions of a Party.

21.15 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.

21.16 Recording. Each Party acknowledges and consents to the tape or electronic recording of all telephone conversations between the Parties, and any such recordings will be retained in confidence, kept secure 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 such monitoring or recording and to obtain any necessary consent of its officers and employees.

21.17 Further Assurances. The Parties will provide reasonable cooperation to each other as necessary to give effect to the terms of this PPA.

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

21.19 Execution Under Seal. Each Party represents and warrants that it hereby adopts the word/symbol (SEAL) as its seal with the intent that this PPA be signed by it under seal and treated as a sealed instrument.

Each Party agrees to all terms and conditions of this PPA and executes this PPA under seal. 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	**International Paper Company**
By: _____	By: _____
Date: _____	Date: _____
(SEAL)	(SEAL)

EXHIBIT A – CAPACITY; AVAILABILITY

A. Contracted Capacity; Tested Reliable Capacity; Designated Capacity:

1. Contracted Capacity Cap; Contracted Capacity Range: The Contracted Capacity range under this PPA is the incremental capacity that is added by the Project above the Excluded Capacity, subject to a Contracted Capacity Cap equal to 102.5% of the Nominal Capability, except that GPC, in its sole discretion, may elect to accept an offer from Generator to increase the Contracted Capacity Cap under Section A.2 (*Tested Reliable Capacity; Performance Tests*) of this **Exhibit A**.

For the avoidance of doubt, (i) the upper limit of the Contracted Capacity range for the Term will be the Contracted Capacity Cap; and (ii) the Contracted Capacity does not include, and this PPA does not apply to, the Excluded Capacity.

2. Tested Reliable Capacity; Performance Tests: Generator must conduct Performance Testing of the Facility under **Exhibit D** (*Performance Testing Procedures*) to determine the capacity that will reliably and consistently be available to deliver energy to the POI under this PPA.

Before the Delivery Commencement Date, but no earlier than 90 Days before the Delivery Commencement Date, Generator must establish the initial Tested Reliable Capacity of the Facility pursuant to a Performance Test. However, if Generator cannot perform the Performance Test during the period of 90 Days due to ambient conditions, Generator must perform the Performance Test as soon as practicable with appropriate ambient conditions after the Delivery Commencement Date.

Following the establishment of the initial Tested Reliable Capacity of the Facility under this PPA, each Party will have the right to request a Performance Test to re-determine the Tested Reliable Capacity to be performed during the period from March 15 to April 15 of each Annual Period upon 10 Business Days' written notice to the other Party, except that, upon consent by both Parties, the Performance Test may be performed outside the period of March 15 to April 15 of each Annual Period. No Performance Test may be scheduled during any period of Scheduled Outage, Maintenance Outage, Force Majeure Event, or during a Forced Outage. The Tested Reliable Capacity determined as a result of an additional Performance Test will become the new Tested Reliable Capacity.

If a Performance Test establishes a Tested Reliable Capacity that demonstrates incremental capacity added by the Project above the Excluded Capacity that is greater than the then-effective Contracted Capacity Cap, Generator may offer to increase the Contracted Capacity Cap to include the entire incremental capacity added by the Project above the Excluded Capacity as demonstrated by such Tested Reliable Capacity and GPC will accept or reject the offer, in its sole discretion. If GPC accepts the offer, the Contracted Capacity Cap will be reset to include the entire incremental capacity added by the Project above the Excluded Capacity as demonstrated by the Tested Reliable Capacity resulting from the Performance Test. If GPC does not accept the offer, the Contracted Capacity Cap will not change.

Generator will be responsible and bear all costs and expenses to obtain and deliver fuel required for Performance Test(s). For Performance Test(s) required to determine the initial Tested Reliable Capacity of the Facility, GPC will receive and purchase the test energy at the Test Energy Price. For Performance Test(s) not required to determine the initial Tested Reliable Capacity and performed after the Commercial Operation Date, GPC will receive and purchase the test energy at the Energy Price.

3. Designated Capacity: Unless Generator designates a lesser Designated Capacity as set forth below in this Section A.3 (*Designated Capacity*), the "Designated Capacity" will be deemed to be the amount equal to the Tested Reliable Capacity minus the Excluded Capacity, except that notwithstanding anything in this PPA to the contrary, the Designated Capacity will not exceed the Contracted Capacity Cap or be less than 92% of the Nominal Capability. If the Tested Reliable Capacity under a Performance Test demonstrates incremental capacity added by the Project above the Excluded Capacity that is greater than the then-effective Contracted Capacity Cap and Generator does not offer, or GPC rejects an offer, to increase the Contracted Capacity Cap under Section A.2 (*Tested Reliable Capacity; Performance Tests*) of this **Exhibit A**, the Designated Capacity will be deemed to be the Contracted Capacity Cap, unless Generator designates a lesser Designated Capacity as set forth below in this Section A.3 (*Designated Capacity*).

Within 10 Business Days after establishment of the Tested Reliable Capacity through a Performance Test, Generator may elect by written notice to GPC to designate a Designated Capacity that is less than the amount equal to the Tested Reliable Capacity minus the Excluded Capacity, except that, (i) the Designated Capacity will not exceed the Contracted Capacity Cap and (ii) if Generator does not so designate a Designated

Capacity in the 10 Business Days period, the Designated Capacity must be determined as set forth above in this Section A.3 (*Designated Capacity*).

However, notwithstanding anything in this PPA to the contrary, if the Interconnection Agreement requires Generator to produce reactive power for the Transmission System, the Designated Capacity will not exceed the capability of the Facility assuming that the maximum production of reactive power is being supplied to satisfy the Interconnection Agreement requirements.

Any change to the Designated Capacity will take effect on the first Day of the next Month after the new Designated Capacity is determined and designated under this Section A.3 (*Designated Capacity*).

B. Calculation of Monthly Availability Percentage:

The following formula is applicable to the calculation of the MAP for a Month:

MAP = (MDE – Monthly Excess Energy) / (Designated Capacity x MH)

Where:

Monthly Delivered Energy (MDE) – Has the meaning assigned in **Exhibit B** (*Energy Payment Calculation*).

Monthly Excess Energy – Has the meaning assigned in **Exhibit B** (*Energy Payment Calculation*).

Monthly Hours (MH) = the total number of hours in the Month, minus (i) any hours in the Month that the Facility is Unavailable as a result of any Scheduled Outages or Maintenance Outages; (ii) hours of Facility ramping; (iii) any hours in the Month that the Facility is Unavailable as a result of a Force Majeure Event declared by Generator under Part 16; and (iv) any hours in the Month that the Facility is Unavailable if the Unavailability is directly caused by the acts or omissions of GPC.

An example calculation for MAP is shown in **Exhibit H** (*Map Calculation Example***)**.

EXHIBIT B – ENERGY PAYMENT CALCULATION

The Monthly Energy Payment ("**MEP**") will be calculated as follows:

MEP = [(MDE - Monthly Excess Energy) * Energy Price] + ∑ [(EE * Excess Energy Price)$_{Hour_1}$ …(EE * Excess Energy Price)$_{Hour_N}$] – FQFS Price Reduction

Where:

Delivered Energy (DE) = the amount of energy delivered from the Facility under this PPA each hour to the POI in MWh. For the avoidance of doubt, Delivered Energy may include Excess Energy and does not include any energy produced by the Facility that corresponds to the Excluded Capacity.

Monthly Delivered Energy (MDE) = ∑ (DE_{Hour_1} … DE_{Hour_N})

Excess Energy (EE) = the amount of Delivered Energy each hour in excess of the Designated Capacity.

Monthly Excess Energy = ∑ (EE_{Hour_1} … EE_{Hour_N})

Energy Price = $ REDACTED/MWh in the first Annual Period during the Term, escalating at REDACTED% on each 12-month anniversary of the Delivery Commencement Date afterwards, as set forth in the table below.

FQFS Price Reduction = Any Future Qualifying Federal Support Amount received in the preceding tax year divided by 12 Monthly Energy Payments. If the FQFS Price Reduction results in a negative Monthly Energy Payment amount, the Monthly Energy Payment shall be zero dollars and any remaining Future Qualifying Federal Support Amount shall be recovered in the following calendar year until all the portion of the Qualifying Federal Support received by the Facility that GPC is entitled to receive has resulted in reductions to the Monthly Energy Price.

Energy Price	
Annual Period during Term	**($/MWh)**
1	REDACTED
2	REDACTED
3	REDACTED
4	REDACTED
5	REDACTED
6	REDACTED
7	REDACTED
8	REDACTED
9	REDACTED
10	REDACTED

Excess Energy Price = AIER x 0.90.

Examples:

If the Excluded Capacity is 40 MW, the Designated Capacity is 10 MW, and the Facility is delivering 53 MW in any given hour, 10 MW will be paid for at the Energy Price, and 3 MW (53-40-10) will be paid for at the Excess Energy Price.

If the Facility is delivering 35 MW in any given hour, all 35 MW will be Excluded Capacity and no energy will be deemed delivered under this PPA.

If the Facility is delivering 42 MW in any given hour, 40 MW will be Excluded Capacity, and 2 MW will be paid for at the Energy Price.

If the Facility receives 12 million dollars in Future Qualifying Federal Support during the preceding tax year (net of Generator's reasonable and documented internal and third party costs directly incurred by Generator and not

in the Generator's ordinary course of business to obtain such Future Qualifying Federal Support), and therefore the Future Qualifying Federal Support Amount is 6 million dollars, then the Monthly Energy Payment will be reduced by five hundred thousand dollars.

If the FQFS Price Reduction for any given month results in a net negative Monthly Energy Payment, the Monthly Energy Payment will be zero dollars and the negative value will be carried forward and applied to the next monthly period.

ATTACHMENT 1 TO EXHIBIT B

EXCLUDED CAPACITY

The Parties acknowledge and agree that the Excluded Capacity under this PPA is 25.2 MW.

Georgia Power Company

By: _____
#Name
#Title

Date: _____

(SEAL)

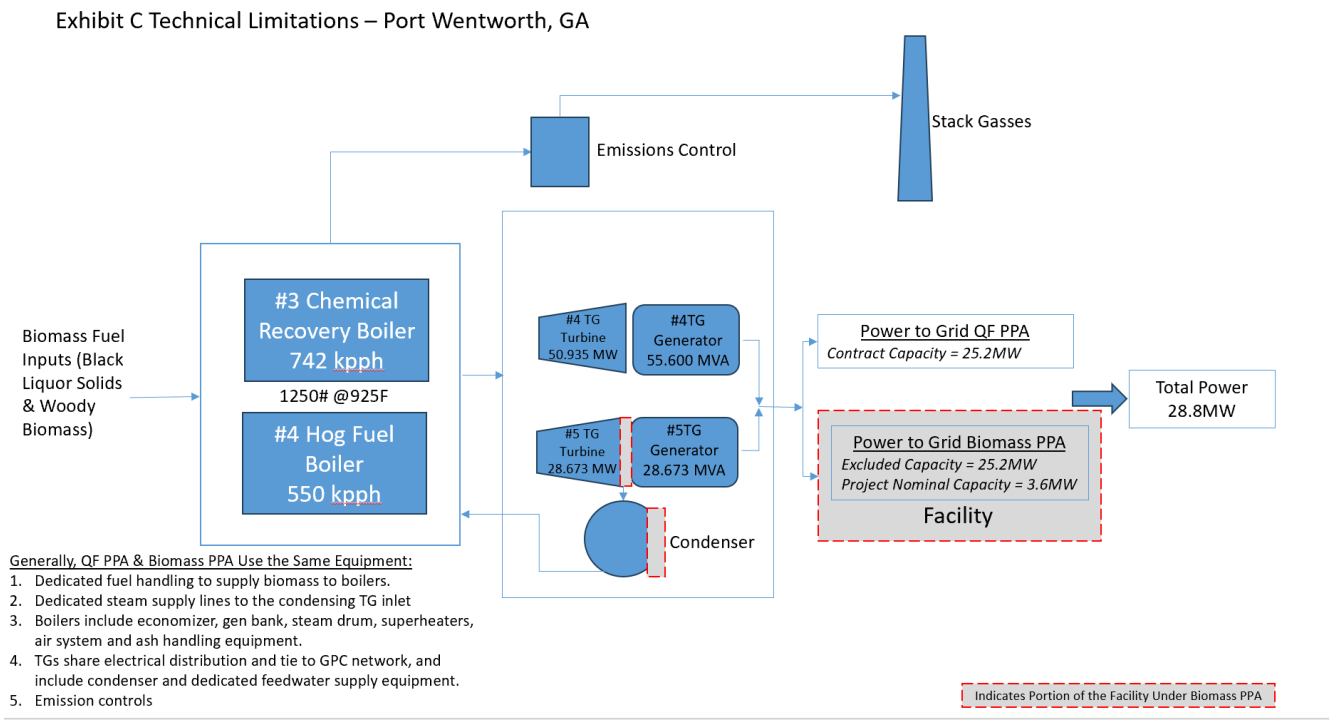
International Paper Company

By: _____
#GeneratorLegalName
#GeneratorSignatureTitle

Date: _____

(SEAL)

EXHIBIT C – TECHNICAL LIMITS



*Subject to compliance with Section 12.1 (Fuel Supply).

EXHIBIT D – PERFORMANCE TESTING PROCEDURES

1. Objective.

The purpose of this Exhibit D is to provide an agreed upon method for the determination of Excluded Capacity, Tested Reliable Capacity, and Designated Capacity of the Facility pursuant to Section 10.1. It is understood and acknowledged that the Performance Tests will be performed pursuant to this Exhibit D: (i) prior to modification of the Facility by the Project pursuant to Section 10.1.1, to demonstrate the Excluded Capacity of 25.2 MW for Port Wentworth Mill, attributed to the Pre-Existing Contract, and to provide a basis for the Parties to execute the Excluded Capacity acknowledgment included as Attachment 1 to Exhibit B of this PPA; (ii) after modification of the Facility by the Project, to establish the Tested Reliable Capacity and Designated Capacity of the Facility pursuant to Section 10.1.2 and Exhibit A of this PPA; and (iii) to re-determine the Tested Reliable Capacity and Designated Capacity pursuant to Sections A.2 and A.3, respectively, of Exhibit A of this PPA.

2. Operating Conditions.

During Performance Tests, the Facility will be operated within the normal design limits, consistent with continuous operation, in compliance with all permit requirements, in accordance with Prudent Industry Practices, and consistent with Generator's reasonable operating procedures and standards (such operating procedures to be delivered to and agreed upon by GPC prior to the Performance Test), as confirmed by available unit operating data. The Facility will be operated with routine control set points at normal full load conditions for the duration of the test conditions, which may include, but not be limited to, blowdown flows, makeup flows, steam turbine extractions, station service, safety margins, and all auxiliary systems will be operated in a routine mode as appropriate for the actual ambient conditions existing and using the Generator's reasonable operating procedures and standards during the test period.

3. Testing.

On the date of a Performance Test, the Facility will be brought to normal full load output capacity and operated in a consistent and safe manner throughout the test period. The test will be scheduled between the weekday hours of 11:00 a.m. and 7:00 p.m. local time. During the test period, data will be collected for a minimum of four (4) hours at normal full load output capability. Data will be collected at least once every 10 minutes during four consecutive one hour test runs. If the results of one test run vary by more than 0.5% from the average of all test runs, then the reason for the discrepancy will be investigated and resolved, or the test run will be discarded. The results of all valid test runs will then be averaged. Four consecutive one hour test runs with none of the test runs deviating by more than 0.5% from the average of the four test runs will constitute a "Performance Test." To the extent the Facility experiences difficulty or unreliability during any test or its historical operating records show difficulty or unreliability during testing of the Facility, GPC may request that Generator perform additional testing of the Facility at Generator's expense in order to demonstrate to GPC's reasonable satisfaction the reliability of the Facility.

All Performance Tests will be performed using existing installed plant instrumentation. However, GPC has the right to request calibration certification or validation by American Society of Mechanical Engineers (ASME) performance test code quality instruments of key unit controls and performance data inputs. Instruments and data points that must be operational and in good working order during all Performance Tests include: net unit electrical output, generator power factor, station service power, steam turbine throttle temperature and pressure, steam turbine extraction flow, ambient dry bulb temperature, ambient relative humidity, and any other parameters used in the correction of measured output to reference conditions. All Performance Tests activities will be conducted by, or under the supervision of, Generator and its contractors. GPC will have the right to have a representative present to witness all Performance Tests. To request a Performance Test, each Party will provide the notice required under Exhibit A of this PPA.

Actual net output of the Facility will be metered with the Metering System. No commercial test tolerances or measurement uncertainties will be applied to test results.

4. Reduction of Data.

Actual tested capacity during each test run will be adjusted to the Reference Conditions, using correction curves standard in the industry for similarly situated biomass generators provided by Generator or its engineer in accordance with the following equation:

Maximum Dependable Capacity = Actual Net Output x Fwetblb x Fpf

where,

Actual Net Output = Average net Facility output delivered to the GPC interface measured during the test conducted at normal full load.

Fwetblb = correction factor for dry bulb temperature and relative humidity from actual conditions to Reference Conditions.

Note: This correction is necessary to correct unit output for changes in cooling tower performance and its effect on condenser pressure.

Fpf = correction for variations in power factor from actual test conditions to Reference Conditions.

Tested Reliable Capacity = Average of Maximum Dependable Capability from all valid test runs.

5. Excluded Capacity.

Following the Facility completing the testing requirements set forth in paragraph 3 above prior to modification of the Facility by the Project, and furthermore demonstrating that the Facility can generate at least 25.2 MW for Port Wentworth mill of energy and associated heat requirements for a minimum of four (4) hours, then (i) the Seller shall be deemed to have satisfied the performance requirements for the initial Performance Test set forth in this Exhibit D, (ii) the Excluded Capacity shall be deemed to be 25.2 MW for Port Wentworth mill, and (iii) the Parties shall execute Attachment 1 to Exhibit B confirming that, for purposes of this PPA, Excluded Capacity shall be 25.2 MW for Port Wentworth mill).

EXHIBIT E – FACILITY DESCRIPTION AND SITE

International Paper owns and operates two steam turbines and two boilers at the Port Wentworth Mill. The first turbine generator is identified as #4TG. It is a Siemens backpressure steam turbine rated at 50,935 KW that passes steam to meet the demands of the pulp mill's 170psig and 50psig steam headers. The second turbine generator is identified as #5TG. It is a General Electric condensing steam turbine rated at 28,673 KW.

The turbines are supplied with 1250 psig 925F steam from two boilers. The #3 Chemical Recovery Boiler, rated 742,000 lb/hr steam, burns black liquor from the pulping process as its primary fuel and natural gas and fuel oil as its supplementary fuel. The #4 Combination Boiler, rated 550,000 lb/hr steam, burns wood waste as its primary fuel along with a mix of process sludge. The #4 Combination Boiler burns natural gas and #2 fuel oil as its supplementary fuels.

The main transmission lines, transformer and switchyard located on-site are owned and operated by Georgia Power. The maximum gross and net output electrical power production capacity at the point of interconnection delivery is limited by the capacity of the utility transformer. The utility transformer is rated for 33 MVA.

The Facility that will generate the 3.6 MWs Nominal Capacity under this Biomass Power Purchase Agreement will come primarily from a Project on #5TG. #5TG will incur upgrades in condensing capability through the insertion of tube bundle vibration dampeners; an upgraded air evacuation system (i.e., hogger/ejector); and V1 modification to increase steam throttle flow. Demineralized water enhancements; SCAH condensate return improvements will enable stage-heating efficiencies that increase incremental power production on #4TG.

The Site is defined as:

The land, rights-of-way, and related equipment and facilities of the International Paper- Port Wentworth Mill electric generating plant known as International Paper- Port Wentworth Mill located in Chatham County, Georgia at 1 Bonnybridge Road.

EXHIBIT F – FORM OF STANDBY LETTER OF CREDIT

[Bank Letterhead]

Date of issuance: _____, 20__

Irrevocable Standby Letter of Credit No.:_____

"Issuer": _____

Address: _____

"Beneficiary": _____

Address: _____

"Account Party": _____

Address: _____

"Expiry Date": _____, 20__, and any automatically extended date, as in this Agreement provided [(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 (this "**Standby Letter of Credit**"), in the aggregate amount not exceeding the Total Amount.

Funds under this Standby Letter of Credit are available to you by the Expiry Date against your sight draft drawn on us in the form attached as Attachment 1 hereto, with appropriate insertions, and referring thereon to the number of this Standby Letter of Credit, accompanied by a completed certificate signed by a Person purporting to be one of your officers or authorized representatives, in the form attached as Attachment 2 hereto, with appropriate insertions.

This Standby Letter of Credit is effective immediately and expires at 5:00 p.m. (Eastern Prevailing time) on the Expiry Date, as it may be extended. 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 before the date, under the notice provisions set forth in this Agreement, that we have elected not to extend the Expiry Date for the additional period.

Presentation of the drafts and the certificates will be made on any day that is a business day for us at or before 5:00 p.m. (Eastern Prevailing Time) at our office located at _____, Atlanta, Georgia, or at any other office in Atlanta, Georgia or New York, New York, that is designated by us in a written notice delivered to you. If the sight draft and the certificate are received at any office on or before the Expiry Date, we agree with you that we will duly honor it within two Business Days after the presentation.

Drawings may also be presented to us by facsimile transmission to facsimile number [_____]. Beneficiary may contact the Issuer at [_____] to confirm receipt of the transmission. Beneficiary's failure to seek telephone confirmation does not affect the Issuer's obligation to honor such a presentation. If you present a facsimile drawing under this Letter of Credit, you do not need to present the original of any drawing documents and the facsimile transmission will constitute the operative drawing documents.

Partial drawings and multiple presentations may be made under this Standby Letter of Credit, except that 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 Agreement, payment of drafts drawn under this Standby Letter of Credit is not subject to any condition or qualification. The obligation of the Issuer under this Standby Letter of Credit is the independent obligation of the Issuer and is in no manner contingent upon reimbursement with respect thereto.

This Standby Letter of Credit is transferable and can be successively transferred to any transferee that Beneficiary states in writing to us has succeeded the Beneficiary under this Letter of Credit; except that 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 Attachment 3 hereto, 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 the transferee with provisions consistent with this Standby Letter of Credit.

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 Agreement or in which this Standby Letter of Credit is referred or to which this Standby Letter of Credit relates, and any reference may not be deemed to incorporate in this Agreement by reference any document, instrument, or agreement.

To the extent not contrary to the express terms of this Agreement, this Standby Letter of Credit will be governed by the International Standby Practices (in this Agreement referred to as the "**ISP98**"). For matters not governed by the ISP98, this Standby Letter of Credit will be governed by and construed under the laws of the state of Georgia.

Notices concerning this Standby Letter of Credit may be sent to a party by hand delivery or by certified mail or registered mail or by electronic transmission to its respective address set forth in this Agreement. Any notice, demand, request, or other communication will be 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

ATTACHMENT 1 TO EXHIBIT F

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:_____

ATTACHMENT 2 TO EXHIBIT F

FORM OF CERTIFICATE

Re: [Insert Name of Agreement] dated _____, 20__ (the "**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] (the "**Bank**") regarding irrevocable standby letter of credit no. _____ (the "**Standby Letter of Credit**"), issued by the Bank for the account of [Account Party] for [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 under 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 under 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:_____

ATTACHMENT 3 TO EXHIBIT F

INSTRUCTION TO ASSIGN IN ENTIRETY

_____, 20__

Re: Irrevocable Standby Letter of Credit No.

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 thereof.

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.

Very truly yours

[Beneficiary]

By:_____

Title:_____

EXHIBIT G – FORM OF GUARANTY

This **Guaranty Agreement** ("**Guaranty**"), dated and effective as of _____, 20__, is made and entered into by **_____** ("**Guarantor**") in favor of **Georgia Power Company** ("**Beneficiary**").

- Beneficiary and **_____** ("**Company**"), [a subsidiary of Guarantor], have entered into that certain Power Purchase Agreement for Biomass Generation dated as of _____, 20__ (as amended, restated, supplemented, or otherwise modified from time to time, "**PPA**");
- Beneficiary has required, as an inducement to its entry into the PPA, that Guarantor deliver to Beneficiary this Guaranty or other Eligible Collateral as and when required under the PPA;
- Guarantor qualifies as a Generator 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 the PPA and to perform its obligations under this Guaranty, 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:

ARTICLE 1 - DEFINITIONS

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

ARTICLE 2 - GUARANTY

2.1 Guaranty. Guarantor unconditionally and irrevocably guarantees to Beneficiary, and its successors and assigns, the prompt and full payment of any and all obligations of the Company to Beneficiary when due, whether by acceleration or otherwise, with the interest as may accrue thereon, under the PPA or under any other documents or instruments now or hereafter evidencing, securing, or otherwise relating to the PPA (the "**Guaranteed Obligations**"); provided, however, that Guarantor's liability under this Guaranty will in no event exceed the aggregate amount of Eligible Collateral required to be provided by Generator (or Generator Performance Security) under Part 7 (*Performance Security*) of the PPA (plus costs of enforcement of this Guaranty as provided in Section 4.4 (*Expenses*) of this Guaranty), as the case may be. Guarantor will immediately pay for any obligation of the Company upon demand by Beneficiary.

2.2. Guaranty Absolute.

(a) Guarantor absolutely guarantees that the Guaranteed Obligations will be paid strictly in accordance with the terms of the PPA, regardless of any Legal Requirement now or hereafter in effect in any jurisdiction affecting any of the terms or the rights of Beneficiary with respect thereto. This Guaranty constitutes a guarantee of payment and not of collection. The obligations of Guarantor under this Guaranty are several from the Company or any other person and are primary obligations concerning which Guarantor is the principal obligor. The liability of Guarantor under this Guaranty will be direct and immediate and not conditional or contingent upon the pursuit of any remedies against the Company or any other person, nor against securities or liens available to Beneficiary, its successors or assigns. **The liability of Guarantor under this Guaranty will be irrevocable, absolute, and unconditional irrespective of, and Guarantor irrevocably waives any defenses it may now have or hereafter acquire in any way relating to:**

(i) any change in the time, manner, or place of payment of, or in any other term of, all or any of the Guaranteed Obligations, or any other amendment, modification, or waiver of, or any consent to departure from, the terms of the 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 the Company or any of its subsidiaries, including any disposal by

Guarantor of all or any part of its interest in the Company, or otherwise alter its investment in the Company in any manner;

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

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

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

(vi) **any failure of Beneficiary to commence an action against the Company, including as contemplated by the provisions of O.C.G.A. Section 10-7-24, as amended;**

(vii) **any lack of due diligence by Beneficiary in the collection or protection of or realization upon any collateral securing the Guaranteed Obligations;**

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

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

(x) **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 any such security or support; or**

(xi) **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.**

(b) This Guaranty will continue to be effective or be reinstated, as the case may be, if at any time any payment of any 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 Bankruptcy Code related to fraudulent conveyance or preference (each a "**Voidable Transfer**"), and Beneficiary or any other person is not required to repay or restore, in whole or in part, any Voidable Transfer, or Beneficiary or any other person elects to do so, all as though the payment had not been made.

(c) 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 the Company or any other person, will release Guarantor's obligations in this Guaranty, affect this Guaranty in any way, or afford Guarantor any recourse against Beneficiary.

(d) In the case of an Event of Default under the PPA or with regard to any of the Guaranteed Obligations, Guarantor consents and agrees that Beneficiary will have the right to enforce its rights, powers, and remedies thereunder or under this Guaranty or under any other instrument now or hereafter evidencing, securing, or otherwise relating to the Guaranteed Obligations, and apply any payments or credits received by the 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 such event will be nonexclusive and cumulative of all other

rights, powers, and remedies provided thereunder or under this Guaranty or by law or in equity. If the Guaranteed Obligations are partially paid by reason of the election of Beneficiary, its 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 the Company may be destroyed or diminished by the exercise of any remedy.

2.3 Waivers and Acknowledgments.

(a) Guarantor 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.

(b) 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 all renewals, amendments, extensions, consolidations, and modifications of the PPA.

(c) Guarantor waives and relinquishes all rights and remedies accorded by application of law to sureties or guarantors and agrees not to assert or take advantage of any rights or remedies, including:

(i) any right to require Beneficiary to proceed against the Company or any other Person or to proceed against or exhaust any security held by Beneficiary 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 undersecured creditor, seeking adequate protection or otherwise.

(d) Guarantor unconditionally and irrevocably waives any defense based on any right of set-off or counterclaim against or in respect of the obligations of Guarantor in this Guaranty.

(e) Guarantor waives any and all defenses, claims, and discharges of the Company or any other obligor pertaining to the Guaranteed Obligations. Without limiting the generality of the foregoing, 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 the Company or any other Person liable in respect of any indebtedness, or any set-off available against Beneficiary to the Company or any other Person, whether or not on account of a related transaction. Guarantor expressly agrees to waive reliance on any anti-deficiency statute(s). If a foreclosure proceeding is commenced, Guarantor expressly agrees that [he][she][it] 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 the Company or any other Person for the deficiency is discharged under statute or judicial decision.

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

2.5 Contribution, Indemnification, Reimbursement. Guarantor irrevocably and absolutely waives all right of contribution, indemnification, reimbursement, or similar rights against the Company regarding the Guaranty, whether the rights arise under an express or implied contract or by operation of law, it being the intention of Guarantor and the Company that Guarantor will not be deemed to be a "creditor" (as defined in Section 101 of the U.S. Bankruptcy Code or any other applicable law) of the Company because of the existence of this Guaranty if the Company becomes a debtor in any proceeding under the U.S. Bankruptcy Code or any other applicable law.

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

ARTICLE 3 - REPRESENTATIONS AND WARRANTIES

Guarantor represents and warrants as follows:

3.1 Organization. Guarantor is a ***[_____]*** duly organized, validly existing and in good standing under the laws of the state of ***[_____]***.

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 [_____] powers, (ii) have been duly authorized by all necessary [_____] action, (iii) do not contravene its [_____] or any Legal Requirement 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 under its terms, except to the extent that the 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 its 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.

ARTICLE 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 may not assign or delegate its rights or obligations under this Guaranty without (a) the prior written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion, and (b) 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*) of this Guaranty (regarding enforcement expenses) and the last sentence of Section 2.2(a) (*Guaranty Absolute*) of this Guaranty 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 will be in writing and will be deemed to have been duly given when actually received if (i) personally delivered; (ii) transmitted by facsimile, electronic, or digital transmission method; or (iii) sent by certified or registered mail, return receipt requested. In each case notice will be sent:

(x) if to Beneficiary:
[Company, address, c/o Person]

(y) if to Guarantor:
[Company, address, c/o Person]

or to such other place and with such 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 or other electronic or digital method 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 thereof.

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; nor will any single or partial exercise of any right under this Guaranty preclude any other or further exercise thereof 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 occasioned by any breach by Guarantor of any of its obligations under this Guaranty, including any actions taken in any bankruptcy or insolvency proceedings, should Guarantor be required to pay under this Guaranty.

4.5 Entire Agreement; Amendments; Other Guarantees. This Guaranty and any agreement, document, or instrument attached hereto or referred to in this Guaranty integrate all the terms and conditions mentioned in this Guaranty or incidental hereto 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, conditions, and provisions of this Guaranty and any agreement, document, or instrument, the terms, conditions, and provisions 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 foregoing: (i) this Guaranty will not release, modify, revoke, or terminate any other guaranty heretofore, now, or hereafter executed by Guarantor; nor will any other guaranty heretofore, now, or hereafter 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 date of this Guaranty 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 of this Guaranty.

4.7 Governing Law; Consent to Jurisdiction. This Guaranty will be construed and interpreted, and the rights of the parties determined, under the law 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.

(a) Each party hereto 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 any court in any suit, action, or proceeding; and (iii) waives any objection that the party may have to the laying of venue of any suit, action, or proceeding in any such court.

(b) GUARANTOR 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 THEREOF.

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/Attestation. 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 party with the intent to sign such 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: (a) agrees that an Electronic Signature, whether digital or encrypted, to this Guaranty is intended to authenticate this Guaranty and to have the same effect as a handwritten signature; (b) 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; (c) is aware that Beneficiary will rely on such signatures; and (d) 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 with respect to this transaction.

Guarantor has caused this Guaranty to be duly executed and delivered under seal by its duly authorized representative as of the day and year first above written.

[#GuarantorLegalName#]

By: _____ (SEAL)

Name:_____

Title:_____

EXHIBIT H – MAP CALCULATION EXAMPLE[2]

Example #1:

Facts: Assume the Facility has a Designated Capacity of 6 MWh and delivers 10 MWh of Delivered Energy each hour for a duration of one month (30 days).

Calculation:

Monthly Delivered Energy (MDE) = 7,200 MW

Monthly Excess Energy = MH x (Excess Energy per hour) = 720 x 4 = 2,880

Designated Capacity = 6 MW

Monthly Hours (MH) = 720

MAP = (MDE – Monthly Excess Energy) / (Designated Capacity x MH) = ((7,200 – 2,880) / (6 X 720)) x 100 = 100%

Example #2:

Facts: Assume the Facility has a Designated Capacity of 10 MWh and delivers 7 MWh of Delivered Energy each hour for a duration of one month (30 days).

Calculation:

Monthly Delivered Energy (MDE) = 5,040 MW

Monthly Excess Energy = 0

Designated Capacity = 10 MW

Monthly Hours (MH) = 720

MAP = (MDE – Monthly Excess Energy) / (Designated Capacity x MH) = ((5,040 – 0) / (10 X 720)) x 100 = 70.00%

Example #3:

Facts: Assume the Facility has a Designated Capacity of 10 MWh and delivers 10 MWh in Delivered Energy each hour for 23 days in one month (30 days). For the remaining 7 days in the month, the Facility is Unavailable as a result of a Scheduled Outage or Maintenance Outage.

Calculation:

Monthly Delivered Energy (MDE) = 5,520 MW

Monthly Excess Energy = 0

Designated Capacity = 10 MW

Total number of hours Facility is unavailable due to Scheduled Outage = 168

Total number of hours in the month = 720

Monthly Hours (MH) = 720 – 168 = 552 hours

MAP = (MDE – Monthly Excess Energy) / (Designated Capacity x MH) = ((5,520 – 0) / (10 X 552)) x 100 = 100%

[2] Note: “Delivered Energy” does not include any energy provided by the Facility corresponding to the Excluded Capacity.

EXHIBIT I – VIE CERTIFICATION

CERTIFICATION OF WHETHER THE PPA WILL REQUIRE DECONSOLIDATION BY GENERATOR WITH RESPECT TO VARIABLE INTEREST ENTITY

AGREEMENT – Power Purchase Agreement for Biomass Generation at International Paper – Port Wentworth Mill between Georgia Power Company ("**GPC**"), and International Paper Company ("**Generator**") (the "**PPA**"). Capitalized terms used herein will have the meaning assigned in the PPA.

The undersigned individual, being the Chief Financial Officer of Generator[3] and having responsibilities for financial accounting matters associated with the PPA, certifies that the PPA WILL (_____)/WILL NOT (_____) require Generator, over the PPA 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 Generator 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) Generator'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) Generator 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) Generator is financed with equity equal to or greater than 10% of Generator'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 Generator's operating cash flows (operating expenses).

   _____Yes
   _____No (please explain)

   Explain:_____

[3] If Generator's business structure does not designate an officer with this or a similar title, Generator 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 Generator'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 Generator'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

Confirmation

The above information (and any attachments) has been completed in full and agrees with our records as of the date hereof.

International Paper Company

By:_____

Name
Printed: _____

Title: _____

Date: _____

EXHIBIT J – 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 Agreement are relevant only if a lease is identified under Accounting Standard Codification ("**ASC**") Topic 842, Leases.)*

AGREEMENT – Power Purchase Agreement for Biomass Generation at International Paper – Port Wentworth Mill between Georgia Power Company ("**GPC**"), and International Paper Company ("**Generator**") (the "**PPA**"). Capitalized terms used herein will have the meaning assigned in the PPA.

The undersigned individual, being the Chief Financial Officer[4] of _____ 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, 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 lease payments 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 a specialized nature that it is expected to have no alternative use to the lessor at the end of the PPA Term as described in paragraph 842-10-25-2(e) of ASC Topic 842.

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

Generator understands that GPC will rely upon this certification and that GPC may require further documentation supporting this certification.

Confirmation

The above information (and any attachment) agrees with Generator's records as of the date hereof.

International Paper Company

By:_____

Name
Printed: _____

Title: _____

Date: _____

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

EXHIBIT K – TRANSFER OF INFORMATION ACKNOWLEDGEMENT

International Paper Company ("**Generator**") and Georgia Power Company ("**GPC**") have entered into the Power Purchase Agreement for Biomass Generation at International Paper – Port Wentworth Mill. The PPA contemplates that certain information that could be considered to be non-public information that potentially has implications under the Federal Energy Regulatory Commission's Standards of Conduct will be provided by Generator to GPC and Southern Company Services, Inc. as agent for the transmission owning subsidiaries of Southern Company (Alabama Power Company, GPC, and Mississippi Power Company).

Generator 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 utilized by individuals in both Transmission/Distribution and energy affiliate/wholesale marketing unit functions under the Standards of Conduct.

The individuals within the Southern Company organizations indicated above may only use the information to implement and administer the PPA (including conducting GPC's system operations and dispatch functions). Generator understands that the information will not be used or disseminated in any manner contrary to the confidentiality provision(s) in the PPA or in violation of the Federal Energy Regulatory Commission's Standards of Conduct.

Generator'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 Southern Company Services, Inc. or by any of the transmission-owning subsidiaries of Southern Company. Generator also acknowledges that Generator is not providing the information under duress or coercion. Under requirements of the Federal Energy Regulatory Commission, Southern Company Services, Inc. may post on OASIS the fact of Generator'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 Generator:

International Paper Company

By: _____

Name: _____

Title: _____

Date: _____