CONTRACT FOR THE PURCHASE OF NON-FIRM ENERGY FROM A QUALIFYING FACILITY

between

ALLIGATOR CREEK SOLAR, LLC

and

GEORGIA POWER COMPANY

Effective Date: April 14, 2022

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**CONTRACT FOR THE PURCHASE OF
NON-FIRM ENERGY
FROM A QUALIFYING FACILITY**

This Contract for the Purchase of Non-Firm Energy from a Qualifying Facility ("**Agreement**") dated as of April 27, 2022 (the "**Execution Date**"), is between Georgia Power Company, a corporation organized and existing under the laws of the state of Georgia, having its principal place of business in Atlanta, Georgia ("**Georgia Power**"), and Alligator Creek Solar, LLC, a Georgia limited liability company ("**QF**"), and QF and Georgia Power may be hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**."

WITNESSETH:

WHEREAS, QF desires to sell, and Georgia Power desires to purchase, energy to be generated by QF's generating facility and made available for sale to Georgia Power consistent with the Georgia Public Service Commission ("**GPSC**") Order in Docket No. 4822;

WHEREAS, the Parties desire to set forth the terms and conditions upon which the sale and purchase of energy may be conducted between the Parties;

WHEREAS, QF's generating facility will be interconnected to and operated in parallel with the Georgia Power Electric System pursuant to the Interconnection Agreement;

WHEREAS, Georgia Power has performed an interconnection study that, among other things, determined estimated Network Upgrades-Interconnection Costs for the Facility and has performed a Delivery Study that, among other things, determined estimated Network Upgrades-Delivery Costs for the Facility;

WHEREAS, QF is responsible for the initial funding of the Network Upgrades-Interconnection Costs as set forth in the Interconnection Agreement, and, if QF achieves Commercial Operation of the Facility under this Agreement, the Network Upgrades-Interconnection Costs paid by QF will be refunded by Georgia Power to QF as set forth in this Agreement; and

WHEREAS, Georgia Power will fund the Network Upgrades-Delivery Costs, subject to the terms of this Agreement; and

WHEREAS, the GPSC has approved a form of Standard Contract for the Purchase of Non-Firm Energy from a Qualifying Facility, with which this Agreement conforms as modified in compliance with the Final Order.

NOW, THEREFORE, for mutual consideration, the Parties covenant and agree as follows:

SECTION 1: DEFINITIONS

In addition to the initially capitalized terms and phrases defined in the preamble of this Agreement, the following initially capitalized terms and phrases, as and when used in this Agreement, have the respective meanings set forth below:

1.1 **"Affected System-Delivery"** – means an electric system other than the Georgia Power Electric System that is impacted by modifications associated with delivery of the Facility's output to Georgia Power's native load.

1.2 **"Affiliate"** – means any Person directly or indirectly controlling or controlled by or under direct or indirect common control of a specified Person. For purposes of this definition, "control" means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. For purposes of this Agreement, it is assumed

that the direct or indirect owner of fifty percent (50%) or more of the outstanding stock or other equity interest of a Person has "control" of such Person. The terms "controlling" and "controlled" have meanings correlative to the foregoing.

1.3 **"After-Tax Basis"** – means, 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 such 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. Such calculations will be made on the basis of the assumption that the recipient is subject to U.S. federal income taxation at the highest applicable statutory rate applicable to corporations for the relevant period or periods, and is subject to state income taxation at the highest applicable statutory rates applicable to corporations in the relevant jurisdiction for the relevant period or periods.

1.4 "**Agreement**" – has the meaning assigned in the preamble.

1.5 "**Agreement Submission Date**" - has the meaning assigned in Section 15.2.2.

1.6 "**AIER**" – means 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.

1.7 **"Annual Period"** – means any one of a succession of consecutive twelve-Month periods, the first of which begins on the first Day of the Month following the Commercial Operation Date; provided, however, if Commercial Operation is achieved on the first Day of a Month, the first Day of the first Annual Period is the Commercial Operation Date.

1.8 **"Appendices"** – means any schedules, exhibits and attachments that are appended hereto and are incorporated by reference herein and made a part of this Agreement.

1.9 **"Business Day"** – means any Day, excluding Saturday and Sunday, and excluding any Day on which banking institutions in Atlanta, Georgia are closed because of a federal holiday.

1.10 "**Change of Law**" – means any adoption, enactment, promulgation or issuance of, change in, or a new or changed interpretation of a Legal Requirement, including changes to laws or regulations regulating or imposing a Tax, fee or other charge on discharges, emissions, effluents or disposals from the Facility.

1.11 **"Commercial Operation"** – has the meaning assigned in Section 2.5.2.

1.12 **"Commercial Operation Date"** – means the date on which the Facility achieves Commercial Operation.

1.13 **"Confidential Information"** – means 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 or observed during inspection by the other Party in connection with discussions leading up to execution of this Agreement, including this Agreement and performance hereunder. Confidential Information must be designated in writing as confidential by the Party supplying such information (the supply of such information to 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 Agreement; (ii) was, at the time of the disclosure, already in the receiving Party's possession; (iii) is disclosed to the receiving Party by a third party who, to the receiving Party's knowledge, is not prohibited from disclosing the

information pursuant to any agreement with the disclosing Party; (iv) the receiving Party develops or derives without the aid, application or use of the privileged or proprietary information; or (v) the receiving Party is required to disclose pursuant to Legal Requirements.

1.14 "**Consent**" – means any approval, consent, authorization or other applicable requirement with respect to the Facility from any Governmental Authority, including all applicable environmental certificates, licenses, permits and approvals and any federal or state compliance program that Georgia Power is or becomes subject to at any time during the Term.

1.15 **"Day"** – means a calendar day.

1.16 "**Delivery Study**" – means that additional study required by Georgia Power to evaluate the need and costs for any additions, modifications, or upgrades to the Georgia Power Electric System or to an Affected System-Delivery, which are required for the delivery of the Facility's output to Georgia Power's native load in compliance with PURPA.

1.17 **"Dispute Response"** – has the meaning assigned in Section 19.1.

1.18 **"Disputing Party"** – has the meaning assigned in Section 19.1.

1.19 **"Effective Date"** – means the date determined pursuant to Section 15.2.

1.20 **"Electrical Products"** – means 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 with respect to the Facility or the metered Energy output thereof; (iii) the metered electric energy produced by the Facility; or (iv) Environmental Attributes.

1.21 **"Energy"** – means the electric energy and Electrical Products generated by the Facility and delivered to the Point of Delivery for purchase by Georgia Power and delivered by Georgia Power to its customers.

1.22 **"Environmental Attributes"** – means (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), and (ii) any environmental benefit Georgia Power otherwise would have realized from or related to the Facility if Georgia Power rather than QF had constructed, owned or operated the Facility.

1.23 "**Estimated Network Upgrades-Delivery Costs**" – means the estimated amount of Network Upgrades-Delivery Costs set forth in **Appendix D**.

1.24 **"Event of Default"** – has the meaning assigned in Section 13.1 for QF and Section 13.2 for Georgia Power.

1.25 **"Execution Date"** – has the meaning assigned in the preamble.

1.26 **"Facility"** – means the Qualifying Facility at the Site interconnected to the Georgia Power Electric System and includes a renewable electric generating plant and all auxiliary equipment and facilities at the Site installed on QF's side of the point of interconnection to the Georgia Power Electric System

necessary or used for the production, control, delivery or monitoring of Energy produced on the Site. The Facility is described in more detail in **Appendix A**.

1.27 "**Facility Capability"** – has the meaning assigned in Section 2.1.

1.28 "**FASB**" – means the Financial Accounting Standards Board.

1.29 **"FERC"** – means the Federal Energy Regulatory Commission or any Governmental Authority succeeding to the powers and functions thereof.

1.30 **"Final Order"** – means the GPSC Order in Docket No. 4822 that is dated March 11, 2021.

1.31 **"Force Majeure Event"** – has the meaning assigned in Section 18.1.

1.32 **"Georgia Power"** – has the meaning assigned in the preamble of this Agreement, and its permitted successors and assigns.

1.33 **"Georgia Power Electric System"** – means the network of electric generation, transmission, or distribution facilities owned by Georgia Power.

1.34 **"Georgia Public Service Commission"** or **"GPSC"** – means the Georgia Public Service Commission.

1.35 **"Governmental Approvals" –** means 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.

1.36 **"Governmental Authority"** – means any federal, state or local governmental or regulatory authority, administrative agency, commission, department, board or court that has jurisdiction over either of the Parties to this Agreement or the subject matter of this Agreement.

1.37 **"GPSC Certification Order"** – has the meaning assigned in Section 15.2.2(i).

1.38 "**Hour**" – means one (1) of the twenty-four (24) clock-hours of a Day.

1.39 **"Hourly Avoided Energy Rate"** – for each hour of a given Month, means the amount, in dollars per megawatt-hour ($/MWh) that is equal to the avoided cost of generation on the Georgia Power territorial system for each hour of such Month as such is calculated by or on behalf of Georgia Power pursuant to the RCB Framework and the applicable GPSC orders.

1.40 "**Interconnection Agreement**" – means that certain Standard Large Generator Interconnection Agreement by and between QF and Southern Company Services, Inc, as agent for Georgia Power Company, dated December 14, 2021, and identified as IC-894.

1.41 **"Interconnection Facilities"** – means the specific transmission or distribution line and substation facility additions or modifications that are owned by Georgia Power and that are necessary to provide interconnection service to the Facility.

1.42 **"Interconnection Limit"** – means the maximum output amount contemplated in the Interconnection Agreement.

1.43 **"Interconnection Provider"** – means Georgia Power, as the owner of the Georgia Power Electric System and the entity responsible for providing interconnection service to the Facility.

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

1.45 **"kW"** – means kilowatt(s).

1.46 **"Legal Requirement"** – means any law, code, statute, regulation, rule, ordinance, permit, judgment, injunction, order 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 Agreement or anytime thereafter during the Term.

1.47 **"Metering System"** – means all meters, metering devices and related instruments owned by Georgia Power that are used to measure and record electric energy and to determine the amount of Energy that is being made available or delivered to Georgia Power at the Point of Delivery.

1.48 "**Milestone Schedule"** – has the meaning assigned in Section 2.5.3.

1.49 **"Month"** – means a calendar Month, commencing at the beginning of the first Day of such calendar Month.

1.50 **"Monthly"** – has a meaning correlative to that of Month.

1.51 **"Monthly Administrative Charge"** – for a particular Month of the Term, means the Monthly amount to be paid by QF to Georgia Power for the items set forth in Section 10.1.

1.52 **"Monthly Energy Payment"** – for a particular Month of the Term, means the Monthly amount to be paid by Georgia Power to QF for Georgia Power's purchase of Energy from the Facility, as the same is calculated by QF as provided in Section 9.1.

1.53 **"MW"** – means megawatt(s).

1.54 **"NERC"** – means the North American Electric Reliability Corporation, including any successor thereto and subdivisions thereof.

1.55 "**Network Upgrades Costs**" – means the sum of Network Upgrades-Delivery Costs plus Network Upgrades-Interconnection Costs.

1.56 "**Network Upgrades-Delivery**" – means additions, modifications, or upgrades to the Georgia Power Electric System or to an Affected System-Delivery that are required for the delivery of the Facility's output to Georgia Power's native load in compliance with PURPA. The Network Upgrades-Delivery that have been determined as of the Execution Date are described in **Appendix D**.

1.57 "**Network Upgrades-Delivery Costs**" – means the costs of Network Upgrades-Delivery.

1.58 "**Network Upgrades-Interconnection**" – means the additions, modifications, and upgrades to the Georgia Power Electric System required at or beyond the point at which the Interconnection Facilities connect to the Georgia Power Electric System to accommodate the interconnection of the Facility to the Georgia Power Electric System. **Appendix D** sets forth the Network Upgrades-Interconnection as set forth in the Interconnection Agreement as of the Execution Date.

1.59 "**Network Upgrades-Interconnection Costs**" - means the costs of Network Upgrades-Interconnection. **Appendix D** sets forth the estimated amount of Network Upgrades-Interconnection Costs as set forth in the Interconnection Agreement as of the Execution Date.

1.60 "**Notice of Dispute"** – has the meaning assigned in Section 19.1.

1.61 **"Party"** or **"Parties"** – has the meaning assigned in the preamble of this Agreement.

1.62 **"Performance Test"** – means a performance test conducted in accordance with performance test procedures that are agreed upon by the Parties, such agreement not to be unreasonably withheld. Such mutually agreed upon performance test procedures will be set forth in **Appendix B**.

1.63 **"Person"** – means any natural person, corporation, limited liability company, general partnership, limited partnership, proprietorship, other business organization, trust, union, association or Governmental Authority.

1.64 **"Point of Delivery"** – means the point where QF will deliver Energy to Georgia Power pursuant to this Agreement as determined by the Parties, which is the point of interconnection of the Facility to the Georgia Power Electric System in accordance with the Interconnection Agreement.

1.65 **"Primary Beneficiary"** – has the meaning as set forth in ASC Topic 810, Consolidation, as issued and modified from time to time by FASB.

1.66 **"Prudent Industry Practices"** – means, at a particular time, any of the practices, methods and acts engaged in or approved by a significant portion of the electric power industry prior to such time, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired results at the lowest cost consistent with good business practices, reliability, safety and expedition. Prudent Industry Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts expected to accomplish the desired results, having due regard for, among other things, manufacturers' warranties and the requirements of Governmental Authorities of competent jurisdiction and the requirements of this Agreement.

1.67 **"PURPA"** – means the Public Utility Regulatory Policies Act of 1978, as such act may be amended from time to time.

1.68 **"QF"** – has the meaning assigned in the preamble of this Agreement, and its permitted successors and assigns.

1.69 **"QF Projected COD"** – means September 1, 2026, which is the date QF selected as the date it reasonably expects the Facility to achieve Commercial Operation.

1.70 **"Qualifying Facility"** – has the meaning defined in Section 292.101(b)(1) of the regulations promulgated under PURPA, 18 C.F.R. Subpart C, Section 292.

1.71 **"Renewable Cost Benefit Framework"** or **"RCB Framework"** – means the comprehensive framework for determining an objective assessment of the costs and benefits of renewable resources on the Southern Company electric system to be used by Georgia Power for the purposes of future program design, resource evaluations, and payment calculations that was approved by the GPSC in Georgia Power's 2019 Integrated Resource Plan in Docket No. 42310, as revised by Georgia Power's January 21, 2020 Compliance Filing, or any successor or equivalent framework approved by the GPSC and thereafter effective.

1.72 **"Representatives"** – means, when used with respect to a Party, collectively or individually (as the context might indicate), such Party, its Affiliates and permitted successors and assigns, and the directors, officers, representatives, agents, contractors, subcontractors, and employees of each of them.

1.73 **"Responding Party"** – has the meaning assigned in Section 19.1.

1.74 **"SERC"** - means the SERC Reliability Corporation, including any successor thereto.

1.75 "**Site**" – means the land in Wheeler County, in the state of Georgia, on which the Facility is located, as specified in **Appendix A**.

1.76 "**Southern Operating Companies**" – means, collectively, the regulated electric utility operating company subsidiaries of The Southern Company that own transmission assets, which, as of the Execution Date, are Alabama Power Company, Georgia Power, and Mississippi Power Company.

1.77 **"Station Service"** – means energy that is used to serve the electrical requirements of the Facility and includes transformer losses and line losses between the Facility and the point of interconnection to the Georgia Power Electric System.

1.78 **"Tax Impact Amount"** – means Georgia Power's cost of money associated with the present value of the stream of payments and deductions, calculated using current income tax rates and costs of capital.

1.79 **"Taxes"** – means all taxes, fees, levies, licenses, or charges imposed by any Governmental Authority, together with any interest and penalties thereon.

1.80 **"Term"** – means the duration of this Agreement as specified in Section 3.1.

1.81 **"Variable Interest"** or **"VI"** – has the meaning as set forth in ASC Topic 810, Consolidation, as issued and modified from time to time by FASB.

1.82 **"Variable Interest Entity"** or **"VIE"** – has the meaning as set forth in ASC Topic 810, Consolidation, as issued and modified from time to time by FASB.

SECTION 2: FACILITY DESIGN AND CONSTRUCTION

2.1 Facility. The Facility is a solar Qualifying Facility located at the Site with a capability of producing approximately 80.0 MW of electric power AC ("**Facility Capability**").

2.2 Permits; Consents. QF will obtain, maintain and comply with, and renew and modify, as necessary, from time to time, at its sole expense, and will provide a written certification from an officer of QF that it has obtained, any and all Governmental Approvals, permits, and Consents required under Legal Requirements for the construction, ownership, operation, maintenance, testing, or any modification of the Facility, in accordance with this Agreement.

2.3 Station Service. QF is responsible for Station Service at QF's expense. QF must arrange Station Service for the Facility in accordance with the Georgia Territorial Electric Service Act (O.C.G.A. §§ 46-3-1 through 46-3-15). If QF supplies its Station Service on QF's side of the Point of Delivery, the Facility's output is net of energy consumed and demand requirements (*i.e.*, the Energy delivered to the Point of Delivery).

2.4 Inspections. Upon reasonable prior notice to QF, Representatives of Georgia Power are entitled to inspect the construction, startup, testing, and operation of the Facility. QF will cooperate in such physical inspections of the Facility as may be reasonably required by Georgia Power.

2.5 Design, Construction and Achieving Commercial Operation.

2.5.1 QF is responsible for completing construction of the Facility in accordance with Prudent Industry Practices and all applicable Legal Requirements.

2.5.2 Georgia Power will deem the Facility to have achieved "**Commercial Operation**" under this Agreement upon fulfillment of the following criteria:

(i) QF demonstrates that the Facility is capable of producing energy and delivering all of the Energy obligated to be delivered pursuant to this Agreement to the Georgia Power Electric System on a safe and reliable basis in accordance with the Interconnection Agreement and Prudent Industry Practices;

(ii) Georgia Power is able to receive such Energy at the Point of Delivery on a reliable basis in accordance with Prudent Industry Practices;

(iii) All Network Upgrades-Delivery have been constructed and Georgia Power is able to deliver such Energy to the Georgia Power Electric System on a safe and reliable basis in accordance with PURPA and Prudent Industry Practices;

(iv) QF has satisfied all requirements in the Interconnection Agreement that are conditions of commercial operation under the Interconnection Agreement and the Facility otherwise is in compliance with the Interconnection Agreement;

(v) QF will have provided to Georgia Power a certificate, reasonably acceptable to Georgia Power, stating that the Facility has been designed, engineered, constructed and tested in accordance with Prudent Industry Practices and is capable of performing in accordance with the terms of this Agreement; and

(vi) QF will have delivered to Georgia Power a certificate from a responsible officer of QF certifying that QF has obtained all Consents required under Legal Requirements for the construction, ownership, operation and maintenance of the Facility in accordance with this Agreement.

For the avoidance of doubt, the Facility may achieve "commercial operation" pursuant to the Interconnection Agreement, and may be considered operational for all other purposes, including Tax purposes, but the Facility will not be deemed to have achieved Commercial Operation for purposes of this Agreement until subsections (i) through (vi) are satisfied.

2.5.3 By no later than December 31, 2024, QF will provide Georgia Power with a schedule containing, at a minimum, all significant milestones related to the design, engineering, procurement, construction, initial synchronization, testing, startup and Commercial Operation Date of the Facility ("**Milestone Schedule**"). QF will notify Georgia Power of any significant changes in the Milestone Schedule and the status of construction as the change occurs.

2.5.4 If the Facility has not achieved Commercial Operation within 180 Days following the QF Projected COD, Georgia Power may upon 30 Days' prior notice to QF (and absent an amendment to QF Projected COD made in accordance with Section 20.11), terminate this Agreement. However, if QF's start-up and testing activities for the Facility are delayed, as a critical-path item on the Milestone Schedule, solely and directly by (i) a delay in the construction of the Interconnection Facilities or the Network Upgrades-Interconnection pursuant to the schedule under the Interconnection Agreement for which Georgia Power is responsible under the Interconnection Agreement, or (ii) a delay in the construction of a Network Upgrades-Delivery to the Georgia Power Electric System by Georgia Power, or (iii) a delay in the construction of a Network Upgrades-Delivery to an Affected System-Delivery by the owner of the Affected System-Delivery, and as a result of such delay in QF's start-up and testing activities for the Facility, QF is prevented from achieving Commercial Operation by the QF Projected COD, then the QF Projected COD will be extended to a date that will reasonably accommodate QF's start-up and testing activities based on such impact to the critical-path of the Milestone Schedule, provided that, as a condition to such extension, QF undertakes all commercially reasonable efforts to avoid, overcome or otherwise mitigate such impact to the critical-path of the Milestone Schedule.

SECTION 3: TERM

3.1 Term. The term of this Agreement begins on the Execution Date and remains in full force and effect for a term of thirty (30) Annual Periods from the Commercial Operation Date, unless terminated earlier pursuant to the early termination provisions set forth in Section 3.2 or terminated earlier pursuant to Section 15.2.

3.2 Early Termination. With 365 Days' written notice to Georgia Power, provided pursuant to Section 20.13, QF may terminate this Agreement. Upon the occurrence of and during the continuation of any Event of Default, the non-defaulting Party has the right to terminate this Agreement pursuant to the provisions of Section 13.3.

3.3 Survival of Rights. Upon termination or expiration of this Agreement, the Parties will be relieved of their obligations under this Agreement, except for the obligation to pay each other monies owed and not paid under this Agreement prior to the termination or expiration, which obligation will survive termination or expiration.

3.4 Effect of Termination. Subject to the exercise of a non-defaulting Party's rights under Section 13.3, if this Agreement is terminated, the rights and obligations of the Parties hereunder will continue unaffected until the termination is effective in accordance with the terms and conditions hereof.

SECTION 4: OPERATION AND MAINTENANCE OF THE FACILITY

4.1 General Standards. During the Term of this Agreement, QF has the sole responsibility to, and will at its sole expense, manage, control, operate and maintain the Facility in accordance with all applicable Legal Requirements, applicable planning standards and operating policies of SERC and NERC, in accordance with the Interconnection Agreement, any applicable operating procedures developed by the Parties, Prudent Industry Practices and the requirements set forth in this Agreement. QF will (i) comply with all Legal Requirements applicable to QF and the Facility, and (ii) diligently seek, obtain, maintain, comply with and, as necessary, renew or modify from time to time, any and all Consents. QF and Georgia Power agree to coordinate scheduled outages of the Facility.

4.2 Maximum Energy Delivery. The Facility must not produce and deliver to the Point of Delivery, at any time, any energy output in excess of the lesser of the (i) Interconnection Limit, and (ii) Facility Capability as set forth in Section 2.1 and as may be adjusted pursuant to Section 6.1.1.

4.3 Access to the Facility.

4.3.1 QF grants to Georgia Power and its Representatives the right to enter the Site with reasonable prior notice to QF to: (i) inspect, maintain, and test meters and other Georgia Power equipment; (ii) monitor or measure Energy generated by the Facility, in accordance with the terms of this Agreement and Prudent Industry Practices; (iii) monitor Performance Tests; and (iv) inspect the Facility. All activities of Georgia Power and its Representatives at the Site will be subject to the reasonable rules and procedures of QF.

4.3.2 In no event will any Georgia Power statement, representation, or lack thereof, either express or implied, relieve QF of its exclusive responsibility for the Facility. Any Georgia Power inspection of property or equipment owned or controlled by QF, or any Georgia Power review of or consent to QF's plans, will not be construed as endorsing the design, fitness or operation of the Facility nor as a warranty or guarantee.

4.4 Availability of Records. QF will keep complete and accurate records and all other data necessary for the purposes of proper administration of this Agreement in accordance with the following guidelines:

4.4.1 All such records related to the Facility and QF's performance under this Agreement will be maintained for a minimum of five (5) years after the creation of such record or data and

for any additional period of time required by Legal Requirements or a Governmental Authority; provided, however, that such records will be kept for as long as is necessary to complete any audit that began or was announced during such five-year period. Notwithstanding anything herein to the contrary, if QF intends to dispose of or destroy any such records or data after such five (5) year period, QF will provide Georgia Power with thirty (30) Days' prior written notice.

4.4.2 QF will maintain an accurate and up-to-date Facility operating log with records of: (i) real and reactive power production for each clock hour; (ii) changes in operating status and scheduled maintenance; (iii) any unusual conditions found during inspections; and (iv) any significant events related to the operation of the Facility.

4.4.3 Upon reasonable advance notice, Georgia Power will have the right to examine the records and data of QF relating to the Facility and this Agreement, including all historical test records relating to the Facility, at the Facility or at a location mutually agreed to by the Parties.

4.4.4 At the request of Georgia Power throughout the Term of the Agreement, QF will provide to Georgia Power public and non-public financial and business information reasonably necessary for Georgia Power to make accounting determinations. Without limiting the foregoing, upon reasonable notice to QF, Georgia Power and Georgia Power's independent auditor will have the right to inspect, from time to time, such books and records of QF as are reasonably necessary for Georgia Power to determine whether QF constitutes a VIE and this Agreement represents a VI. To the extent such inspection requires access to confidential information of QF, such information will constitute Confidential Information subject to the provisions of Section 20.5 of this Agreement.

4.4.5 Georgia Power agrees to maintain the information provided by QF pursuant to this Section 4.4 as confidential and to use such information solely for the purpose of administering this Agreement.

4.5 Disclaimer. QF understands and agrees that Georgia Power's receipt and/or review of any material related to the Facility or any physical inspection of the Facility conducted by Georgia Power under any provision of this Agreement is solely for Georgia Power's information. By conducting such reviews or inspections, Georgia Power 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 QF in accordance with the terms of this Agreement, and Georgia Power will not be deemed to have accepted any condition of the Facility that is not in full compliance with the terms hereof. QF will in no way represent to any third party that, as a result of Georgia Power's receipt and review of any material or any inspections, Georgia Power is in any way responsible for the engineering or construction soundness of the Facility.

SECTION 5: PERFORMANCE SECURITY

5.1 Reserved.

SECTION 6: DELIVERY OF ENERGY

6.1 Notice.

6.1.1 Each Party has the right, at its cost and expense, to request a Performance Test to re-determine the Facility Capability upon ten (10) Business Days' written notice to the other Party, such test to be performed no more frequently than once per calendar year, unless mutually agreed otherwise. Following the completion of the Performance Test and on or before June 1 of each calendar year, QF will provide Georgia Power with the estimated amounts of Energy to be generated by the Facility and delivered to Georgia Power for each Month of the remaining calendar year and the following calendar year, including the time, duration and magnitude of any planned outages or reduction in Facility Capability for the remaining calendar year and the following calendar year. No Performance Test may be scheduled or occur during any period of outage. If the result of a Performance Test evidences an adjustment of the

Facility Capability set forth in Section 2.1, then, for purposes of this Agreement, the Facility Capability in Section 2.1 will thereafter be deemed adjusted to the level evidenced by the Performance Test.

6.1.2 On or before 8:00 a.m. (Eastern Time) of each Day, QF will provide to Georgia Power an estimate of the Hourly amounts of Energy to be delivered at the Point of Delivery for the next succeeding Day.

6.1.3 QF will comply with reasonable requirements of Georgia Power regarding Day-to-Day or Hour-by-Hour communications with Georgia Power relative to the performance of the Facility under this Agreement.

6.1.4 Promptly upon becoming aware of any event or other condition resulting in a change, including any increase or reduction, to the Facility Capability as compared against the results of the most recent Performance Test, QF will provide Georgia Power with written notice of the change, including a detailed explanation of the cause, expected duration and impact of the change in Facility Capability. QF will provide Georgia Power with sixty (60) Days' notice of any expected increase in Facility Capability. For purposes of this Agreement, the Facility Capability set forth in Section 2.1 will not be adjusted as a result of QF providing any notice required by this Section 6.1.4.

6.2 Interconnection to the Georgia Power Electric System.

6.2.1 The Interconnection Agreement will be read in conjunction with the provisions of this Section 6.2 and any contradictory provisions related to Facility interconnection will be resolved in favor of the Interconnection Agreement.

6.2.2 Reserved.

6.2.3 Georgia Power will not be responsible under this Agreement for any costs or expenses (including overheads and administrative costs) or risks incurred in connection with the design, construction, installation, operation or maintenance of QF's Facility up to the Point of Delivery. QF is responsible for determining all interconnection rules, practices and policies with which it must comply and for coordination with transmission and distribution personnel in connection with the interconnection process.

6.2.4 Georgia Power will construct and fund the Network Upgrades-Delivery. **Appendix D** sets forth the Network Upgrades-Delivery that have been determined as of the Execution Date to be required and sets forth the Estimated Network Upgrades-Delivery Costs.

6.2.5 QF is required pursuant to the Interconnection Agreement to initially fund the Network Upgrades-Interconnection by making payment to Georgia Power for estimated Network Upgrades-Interconnection Costs as set forth in the Interconnection Agreement. **Appendix D** sets forth the Network Upgrades-Interconnection and the estimated amount of Network Upgrades-Interconnection Costs, in each case as set forth in the Interconnection Agreement as of the Execution Date; provided, however, for the avoidance of doubt, **Appendix D** does not limit or otherwise modify QF's responsibility under the Interconnection Agreement for initially funding any additional estimated Network Upgrades-Interconnection Costs in accordance with the requirements of the Interconnection Agreement.

6.2.6 Subject to Section 2.5.4 of this Agreement, if QF achieves Commercial Operation of the Facility pursuant to Section 2.5.2 of this Agreement, Georgia Power will, within ninety (90) Days following the Commercial Operation Date, refund to QF the Network Upgrades-Interconnection Costs paid by QF. However, notwithstanding anything herein to the contrary, if this Agreement is terminated by QF pursuant to the first sentence of Section 3.2, or if this Agreement is terminated by Georgia Power pursuant to Section 13.3, in either case with such termination occurring prior to the completion of the Term, then QF will repay to Georgia Power such portion of the refunded Network Upgrades-Interconnection Costs that is equal to the product of (i) the total amount of the refunded Network Upgrades-Interconnection Costs divided by three hundred sixty (360), multiplied by (ii) the number of months, including any portion of a

month, that are remaining in the Term at the time of the termination. The Parties agree that this Section 6.2.6 sets forth an alternative repayment under Section 11.4.1 of the Interconnection Agreement for the Network Upgrades-Interconnection Costs. For the avoidance of doubt, any reconciliation for Network Upgrades-Interconnection Costs upon any termination of this Agreement prior to QF achieving Commercial Operation of the Facility shall be governed by the Interconnection Agreement.

6.2.7 Notwithstanding anything herein to the contrary, if after QF achieves Commercial Operation of the Facility pursuant to Section 2.5.2, (i) QF terminates this Agreement pursuant to the first sentence of Section 3.2 or (ii) Georgia Power terminates this Agreement pursuant to Section 13.3, in either case with such termination occurring prior to the completion of the Term, then QF will reimburse Georgia Power for such portion of the Network Upgrades-Delivery Costs that is equal to the product of (i) the total amount of Network Upgrades-Delivery Costs incurred by Georgia Power divided by three hundred sixty (360), multiplied by (ii) the number of months, including any portion of a month, that are remaining in the Term at the time of the termination.

6.2.8 The Interconnection Agreement reflects a projected completion date for construction of the Interconnection Facilities, including a reasonable schedule between initial synchronization and the Commercial Operation Date to allow for operations verification and testing consistent with the QF Projected COD and Georgia Power's current practices. QF is required to execute and perform under the Interconnection Agreement in a timely manner, including providing timely notice to proceed, timely submission of required data and documentation, and timely payment.

6.2.9 If QF questions or contests the amount or propriety of any payment claimed by Georgia Power to be due pursuant to Section 6.2, the billing dispute procedures set forth in Section 11.2 will apply to the disputed amounts. QF will make payment to Georgia Power of amounts not in dispute but may withhold amounts disputed in good faith until after the settlement of such question or contest in accordance with the procedures set forth in Section 11.2.

SECTION 7: METERING

7.1 Metering. Georgia Power will design, locate, construct, install, own, operate and maintain meters and such other facilities, equipment and devices as Georgia Power deems necessary or appropriate to measure the amount of Energy delivered by QF to Georgia Power at the Point of Delivery, all in accordance with the Interconnection Agreement and Prudent Industry Practices. QF will be responsible for, and will reimburse Georgia Power for, all costs and expenses reasonably incurred by Georgia Power in connection with the design, construction, installation, ownership, operation, maintenance and reading of the meters and other such facilities, equipment and devices. All meters and other such facilities, equipment and devices installed by Georgia Power are and remain the personal property of Georgia Power. QF is entitled to install and maintain on its side of the Point of Delivery, at QF's expense, parallel devices, which devices may be used for purposes of verifying the accuracy of the Georgia Power metering equipment.

7.2 Inspection and Testing. Georgia Power will inspect and test all meters installed by Georgia Power at such times as Georgia Power deems necessary or appropriate, but not less often than once every two (2) Annual Periods. Upon reasonable written request to Georgia Power, QF may request, at its own expense, inspection or testing of any such meters more frequently than once every two (2) Annual Periods. QF will be responsible for, and will reimburse Georgia Power for, all costs and expenses incurred by or on behalf of Georgia Power in connection with such inspections or tests. Georgia Power will give reasonable written notice of the time and place when any meter is to be inspected or tested, and QF may have a Representative present at such test or inspection.

7.3 Inaccuracies. If any seal securing the metering is found broken, 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 one-half percent (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 measurements were made by the Metering System, if that period can be

determined to the mutual satisfaction of the Parties, or (ii) if such actual period cannot be determined to the mutual satisfaction of the Parties, one-half of the period from the date of the last test of the Metering System to the date such failure is discovered or such test is made (such period herein the "**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 under similar conditions during the period since the last test. Within thirty (30) Days after the determination of the amount of any adjustment, Georgia Power will pay QF any additional amounts then due for deliveries of Energy during the Adjustment Period or Georgia Power will be entitled to a credit against any subsequent payments for Energy, as the case may be.

7.4 Presence at Metering System Events. Georgia Power and its Representatives will be entitled to be present at any test, inspection, maintenance, adjustment or replacement of any equipment relating to the Metering System.

SECTION 8: PURCHASE AND SALE OF NON-FIRM ENERGY

8.1 Energy. On and after the Commercial Operation Date, and during each Annual Period, subject to the terms and conditions of this Agreement, QF will deliver to the Point of Delivery and sell to Georgia Power, and Georgia Power will receive from the Point of Delivery and purchase from QF, the Energy produced by the Facility and delivered to the Point of Delivery; provided, however, QF is prohibited from delivering, and Georgia Power is not obligated to accept pursuant to this Agreement, Energy in an amount that exceeds the lesser of the (i) Interconnection Limit and (ii) the Facility Capability. The sale and purchase of Energy delivered by QF to the Point of Delivery will include, at no additional cost to Georgia Power, the transfer from QF to Georgia Power of any and all Electrical Products associated with such Energy.

8.2 Testing and Test Energy. QF may not commence initial deliveries of Energy to the Point of Delivery without the prior written consent of Georgia Power, which consent will not be unreasonably withheld. Georgia Power will purchase Energy (including associated Electrical Products) produced by the Facility during Facility testing and start-up procedures at such times and under conditions acceptable to Georgia Power at ninety percent (90%) of the AIER. Representatives of Georgia Power will have the right to be present during any such testing.

8.3 Environmental Attributes Not Included. Georgia Power will have no obligation to purchase or pay for the Facility's Environmental Attributes under this Agreement. The Parties acknowledge that Environmental Attributes relating to the Facility remain the sole and exclusive property of QF.

8.4 Point of Delivery; Title; Risk of Loss. Unless otherwise agreed by Georgia Power in writing, QF will deliver all Energy to Georgia Power at the Point of Delivery. The title to and risk of loss of Energy will pass from QF to Georgia Power at the Point of Delivery.

8.5 No Sales to Third Parties. During the Term of this Agreement, energy from the Facility must not be committed for sale to any Person other than Georgia Power.

SECTION 9: ENERGY PAYMENTS

9.1 Calculation of Monthly Energy Payments. Georgia Power will owe QF a Monthly Energy Payment, in dollars ($) per Month, for Energy purchased by Georgia Power from QF (which includes all compensation for the transfer to Georgia Power of the Electrical Products associated with the Energy) during such Month, if any. The Monthly Energy Payment for a given Month, if any, will equal the sum of the following products for each of the Hours in such Month:

(i) the amount of Energy delivered by QF to Georgia Power during an Hour of such Month; adjusted as necessary to facilitate application of the RCB Framework, multiplied by

(ii) the Hourly Avoided Energy Rate for such Hour of such Month.

9.1.1 Georgia Power's obligation to pay the Monthly Energy Payment will commence on the Commercial Operation Date.

9.1.2 QF will not be entitled to separate or additional compensation for Electrical Products beyond the Monthly Energy Payment as calculated in accordance with this Agreement.

SECTION 10: ADMINISTRATIVE CHARGE

10.1 Administrative Charge. QF will owe Georgia Power a Monthly Administrative Charge, in dollars ($) per Month, for all costs and expenses incurred by Georgia Power during such Month in connection with (i) Georgia Power's administration of this Agreement, (ii) any Taxes, assessments or other impositions for which Georgia Power may be liable as a result of purchase of Energy from QF or any other activity undertaken pursuant to this Agreement, (iii) any amounts owed to Georgia Power with respect to metering as set forth in Section 7, or (iv) any amounts that are otherwise chargeable to or to be paid by QF under a provision hereof. The Monthly Administrative Charge is set forth in Table 10.1. Georgia Power may revise the amount of the Monthly Administrative Charge on an annual basis and will submit any revisions to the GPSC for review.

Table 10.1

Facility Capability	Monthly Administrative Charge
< 3 MW	$115
≥ 3 MW	$275

SECTION 11: PAYMENT PROCEDURE

11.1 Billing and Payment. Bills will be issued, and payments will be made Monthly to QF and by QF in accordance with, the following procedures:

11.1.1 Following Commercial Operation, Georgia Power will provide written notice to QF of the amount of Energy delivered for each Month by no later than the fifteenth (15th) Business Day of the following Month. Within ten (10) Business Days after receipt of the foregoing notification, QF will provide Georgia Power with an invoice for the Monthly Energy Payment, if any, calculated for such Month pursuant to Section 9.1, showing the basis for the calculation of the Monthly Energy Payment by Georgia Power to QF. Such payments will be due and payable within twenty (20) Business Days after the date of receipt of QF's invoice.

11.1.2 Georgia Power will issue a Monthly invoice for the Monthly Administrative Charge to QF. All amounts owing to Georgia Power from QF will be due and payable within twenty (20) Business Days after the date of receipt of Georgia Power's invoice.

11.1.3 The Monthly Energy Payment, the Monthly Administrative Charge, or any other payment owed under this Agreement, will be due and payable on or before the twentieth (20th) Business Day after a Party's receipt of such invoice. Payment of an invoice will be made on or before the date due in immediately available funds through wire transfer of funds or other means acceptable to the Parties. If payment is not made on or before such twentieth (20th) Business Day, then interest will be added to the

overdue payment, from the date such overdue payment was due until such overdue payment, together with interest, is paid, which interest will compound at the Interest Rate.

11.1.4 Test energy delivered prior to the Commercial Operation Date will be billed in the invoice for the first Monthly Energy Payment.

11.1.5 Georgia Power may provide a net payment or net bill, whichever is applicable, that consolidates amounts owing to QF with amounts owing to Georgia Power under this Agreement.

11.2 Billing Disputes and Final Accounting.

11.2.1 If Georgia Power questions or contests the amount or propriety of any payment claimed by QF to be due pursuant to this Agreement, Georgia Power will make payment to QF of amounts not in dispute, but may withhold amounts disputed in good faith until after the settlement of such question or contest in accordance with this Section 11.2.

11.2.2 If Georgia Power questions or contests the correctness of any charge or credit, Georgia Power will provide QF with written notice of such amount and the basis for Georgia Power's question or contest. QF will promptly review the questioned charge or credit and notify Georgia Power of any error in QF's determination of amounts owed by Georgia Power and will issue an amended invoice in the amount of any payment that Georgia Power is required to make in respect of such redetermination. If Georgia Power disputes in good faith QF's amended invoice amount, then the matter will be resolved pursuant to the provisions of Section 19.1. To the extent QF disagrees with Georgia Power's basis for questioning the original invoice, QF will provide a written explanation of its position.

11.2.3 QF will have until the end of one (1) year after the date of delivery of Energy under this Agreement to correct any invoice for payment due for such Energy and deliver a corrected invoice to Georgia Power. Georgia Power will have until the end of one (1) year after its receipt of any invoice to question or contest the correctness of any charge or credit made to Georgia Power on such invoice. If within such one (1) year period, Georgia Power has made payment under an invoice and thereafter questions or contests the correctness thereof, QF will not be required to refund any payment received from Georgia Power until such time as it is finally determined that QF's invoice was in error.

11.3 Interest. If either Party does not make a payment required by this Agreement when due, then interest at the Interest Rate, from the date such overdue payment was due until the date such overdue payment, together with interest, is paid, will be added to the due payment. If either Party makes a payment pursuant to an invoice that is later determined to have been incorrect, then interest at the Interest Rate from the date such overpayment was made, will be added to the overpayment until such overpayment is refunded to such Party. Remittance received by mail, if mail is a means of payment acceptable to a Party owed such payment, will be accepted without interest charges if such 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.

11.4 Billing and Payment Records. Each Party will, until the end of one (1) year after its receipt of any invoice, make available to the other Party, and each Party may audit, such books and records of the other Party as are necessary for such Party to verify the calculation of the Monthly Energy Payments and any other invoice, charge or payment demand made in connection with this Agreement. Such books and records may exclude information that is proprietary or confidential to Georgia Power; provided, however, that QF may have access to such confidential and proprietary information, exclusively for audit purposes upon the execution of a confidentiality agreement with Georgia Power.

SECTION 12: REPRESENTATIONS, WARRANTIES AND COVENANTS

12.1 QF Representations, Warranties and Covenants. QF makes the following additional representations, warranties and covenants as the basis for the benefits and obligations contained in this Agreement:

12.1.1 QF is a limited liability company, 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 power and authority to own its properties, to carry on its business as now being conducted, and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

12.1.2 The execution, delivery and performance of this Agreement by QF have been duly authorized by all necessary company action, and do not and will not require any consent or approval of QF's members other than that which has been obtained.

12.1.3 The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Agreement, 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 or any partnership agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which QF is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing.

12.1.4 This Agreement is the legal, valid and binding obligation of QF, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

12.1.5 There is no pending, or to the knowledge of QF, threatened action or proceeding against QF or its affiliates before any Governmental Authority that purports to adversely affect the legality, validity or enforceability of this Agreement as in effect on the date hereof, or that reasonably could be expected to have a material adverse effect on QF's ability to perform its obligations under this Agreement.

12.1.6 The Facility is, and will remain at all times during the Term, a Qualifying Facility.

12.1.7 QF covenants to Georgia Power that it will at all times during the Term of this Agreement pay or cause to be paid when due, all charges, Taxes, assessments and fees owed with respect to (i) the Facility, including its development, permitting, design, engineering, procurement, construction, testing, startup, ownership, leasing, financing, operation, and maintenance; and (ii) the production and delivery of energy and Electrical Products to be provided to Georgia Power arising prior to the time of QF's delivery of such Energy and Electrical Products to Georgia Power at the Point of Delivery.

12.1.8 From the Effective Date through the end of the Term, QF covenants that, from its perspective or due to any of QF's actions, Georgia Power will not be required by any Legal Requirement or any accounting standard, including those implemented or administered by the FASB, to consolidate QF or any of its Affiliates or permitted assigns as a VIE in Georgia Power's or any of its Affiliates' financial statements. QF covenants to promptly notify Georgia Power following any determination made by QF or its independent auditor that QF constitutes a VIE for which Georgia Power is the Primary Beneficiary as a result of this Agreement, considered individually or together with any other power purchase agreements between QF and Georgia Power.

12.1.9 QF will remain in compliance with the Interconnection Agreement throughout the Term.

12.1.10 QF has and will transfer or will cause to be transferred to Georgia Power at the Point of Delivery, good and marketable title to all Energy, free and clear of any lien, Tax obligations, claim, security interest or any other encumbrance.

12.1.11 There are no bankruptcy proceedings pending or being contemplated by QF or, to its knowledge, threatened against it.

12.1.12 The Facility's maximum energy output must at all times remain at or below the lesser of the (i) Interconnection Limit and (ii) the Facility Capability, and QF will not make any change fundamentally altering the location of the Facility or the type of power generation technology, or materially adjusting the capacity of the Facility, without the prior written consent of Georgia Power, which consent will not be unreasonably delayed or withheld.

12.2 Georgia Power Representations, Warranties and Covenants. Georgia Power makes the following additional representations, warranties and covenants as the basis for the benefits and obligations contained in this Agreement:

12.2.1 Georgia Power 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 power and authority to own its properties, to carry on its business as now being conducted and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

12.2.2 The execution, delivery and performance of this Agreement by Georgia Power have been duly authorized by all necessary corporate action, and do not and will not require any consent or approval, other than that which have been obtained.

12.2.3 The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Agreement, 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, or any partnership agreement, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which Georgia Power is a party or by which it or any of its property is bound, or result in a breach of or a default under any of the foregoing.

12.2.4 This Agreement is the legal, valid and binding obligation of Georgia Power, enforceable against it in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization or similar laws relating to or affecting the enforcement of creditors' rights generally or by general equitable principles, regardless of whether such enforceability is considered in a proceeding in equity or at law.

12.2.5 There is no pending, or to the knowledge of Georgia Power, threatened action or proceeding against Georgia Power or its affiliates before any Governmental Authority that purports to adversely affect the legality, validity or enforceability of this Agreement or that reasonably could be expected to have a material adverse effect on Georgia Power's ability to perform its obligations under this Agreement.

12.2.6 There are no bankruptcy proceedings pending or being contemplated by Georgia Power or, to its knowledge, threatened against it.

12.3 Survival of Representations, Warranties and Covenants. All representations, warranties and covenants made by QF and by Georgia Power in or under this Agreement will survive the execution and delivery of this Agreement and any action taken pursuant hereto.

SECTION 13: EVENTS OF DEFAULT; REMEDIES

13.1 Default by QF. The occurrence of any of the following events will constitute an Event of Default by QF and will give Georgia Power the right, without limitation, to exercise the remedies specified in Section 13.3:

13.1.1 QF sells any energy or Electrical Products from the Facility to a third party during the Term.

13.1.2 QF fails to pay Georgia Power any undisputed amount payable by QF to Georgia Power pursuant to this Agreement for twenty (20) Business Days after the same became due and payable and QF fails to cure such failure to pay within twenty (20) Business Days after receipt of written demand therefor from Georgia Power.

13.1.3 A court having jurisdiction enters: (i) a decree or order for relief in respect of QF 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, which was sought by any Person other than QF, adjudicating QF bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of QF under any applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of QF or of any substantial part of its affairs.

13.1.4 QF: (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 QF 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 relief under any applicable federal or state law, which, if granted would have the effect of relieving QF of any of its obligations; (iv) consents to the filing of any petition for, or to the appointment of or the taking of possession by, a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official for QF or for 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.

13.1.5 QF violates any of the requirements of Sections 20.1.1 or 20.1.2 through a sale, assignment or transfer of this Agreement.

13.1.6 QF (a) abandons the (i) development or construction of the Facility prior to the Commercial Operation Date, or (ii) reconstruction of the Facility following a Force Majeure Event, and (b) in either case, within thirty (30) Days following written notification from Georgia Power, fails to provide sufficient evidence to Georgia Power proving such abandonment has not occurred.

13.1.7 QF, or any of its Representatives, willfully adjusts the Metering System or the Interconnection Facilities without Georgia Power's prior written consent and which adjustment has the effect of falsely increasing the amounts owed by Georgia Power under this Agreement.

13.1.8 Any representation, warranty, or covenant made by QF herein or in any certificate or other document delivered to Georgia Power pursuant hereto, proves to be incorrect in any material respect when made, unless QF promptly commences and diligently pursues action to cause such representation, warranty, or covenant to become true in all material respects and does so within thirty (30) Days after notice thereof has been given to QF by Georgia Power (unless such cure is not capable of being effected within such thirty (30) Day period, in which case QF will have an additional thirty (30) Day period in which to perform such cure) and such cure removes any material adverse effect on Georgia Power of such representation, warranty, or covenant having been incorrect.

13.1.9 QF fails to perform or comply with any other material term or condition of this Agreement, other than those listed in Sections 13.1.1 through 13.1.8, and fails to conform to said term or condition within thirty (30) Days after a written demand by Georgia Power to do so.

13.2 Default by Georgia Power. The occurrence of any of the following events will constitute an Event of Default by Georgia Power and will give QF the right, without limitation, to exercise the remedies specified in Section 13.3:

13.2.1 Georgia Power fails to pay any undisputed amount payable by Georgia Power to QF pursuant to this Agreement for twenty (20) Business Days after the same became due and payable and Georgia Power fails to cure such failure to pay within twenty (20) Business Days after receipt of written demand therefor from QF.

13.2.2 A court having jurisdiction enters: (i) a decree or order for relief in respect of Georgia Power 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 Georgia Power bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of Georgia Power under any applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of Georgia Power or of any substantial part of its affairs.

13.2.3 Georgia Power: (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 Georgia Power 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 relief under any applicable federal or state law, which, if granted would have the effect of relieving Georgia Power of any of its obligations; (iv) consents to the filing of any petition for, or to the appointment of or the taking of possession by, a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of Georgia Power or for 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.

13.2.4 Georgia Power violates the requirements of Section 20.1.3 through an assignment or transfer of this Agreement.

13.2.5 Any representation, warranty, or covenant made by Georgia Power herein or in any certificate or other document delivered to QF pursuant hereto proves to be incorrect in any material respect when made, unless Georgia Power promptly commences and diligently pursues action to cause such representation, warranty or covenant to become true in all material respects and does so within thirty (30) Days after notice thereof has been given to Georgia Power by QF (unless such cure is not capable of being effected within such thirty (30) Day period, in which case Georgia Power will have an additional thirty (30) Day period in which to perform such cure) and such cure removes any material adverse effect on QF of such representation, warranty, or covenant having been incorrect.

13.2.6 Georgia Power fails to perform or comply with any other material term or condition of this Agreement, other than those listed in Sections 13.2.1 through 13.2.5, and fails to conform to said term or condition within thirty (30) Days after a written demand by QF to do so.

13.3 Remedies for Events of Default. For any Event of Default specified under Section 13.1 or 13.2, the non-defaulting Party may in its discretion terminate this Agreement by giving written notice thereof to the defaulting Party and exercise all remedies available at law or in equity.

13.4 Liability and Damages. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER GEORGIA POWER NOR QF WILL BE LIABLE TO THE OTHER FOR SPECIAL,

INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES UNDER, ARISING OUT OF, DUE TO OR IN CONNECTION WITH ITS PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT OR ANY OF ITS OBLIGATIONS HEREIN, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, WARRANTY OR OTHERWISE. THE PROVISIONS OF THIS SECTION 13.4 WILL SURVIVE THE TERMINATION OF THIS AGREEMENT.

SECTION 14: COMPLIANCE WITH LAWS

14.1 Compliance. QF represents, warrants and covenants that as of the Commercial Operation Date and for the Term, QF must (i) be in compliance with all Legal Requirements with respect to the ownership, operation and maintenance of the Facility, including all requirements to seek, obtain, maintain, comply with and, as necessary, renew and modify from time to time, any and all applicable certificates, licenses, permits, Governmental Authority approvals and all applicable environmental certificates, Consents, environmental impact analysis, and if applicable, the mitigation of environmental impacts, and (ii) pay all costs, expenses, charges and fees in connection therewith.

14.2 Approvals. QF and Georgia Power each agree to use diligent efforts to apply for promptly and to pursue any required acceptance or approval from Governmental Authorities for the consummation of the transactions contemplated by this Agreement or for the giving of effect to the expiration of this Agreement or any termination of this Agreement. This provision is not intended to subject this Agreement to the jurisdiction of any Governmental Authority that does not have such jurisdiction over this Agreement as of the Effective Date.

14.3 Change of Law. If, after the Execution Date, a Change of Law occurs that causes a Party to incur additional costs in carrying out its obligations under this Agreement, such Party agrees to pay all costs associated with such Change of Law and acknowledges that the Monthly Energy Payments made by Georgia Power to QF pursuant to this Agreement will not be altered as a result of such Change of Law. If, after the Execution Date, a Change of Law occurs that causes a Party to incur a reduction in costs that are projected to decrease such Party's costs in carrying out its obligations under this Agreement, such realized savings will be retained by such Party and the Monthly Energy Payments made by Georgia Power to QF pursuant to this Agreement will not be altered as a result of such Change of Law.

SECTION 15: GPSC AND FERC APPROVALS

15.1 GPSC: Recovery of Payments from Ratepayers. Notwithstanding any other provision of this Agreement, if Georgia Power, at any time during the Term of this Agreement is denied the authorization of the GPSC to recover from its ratepayers any or all of the payments already made or required or contemplated to be made to QF pursuant to this Agreement, Georgia Power may, at its sole option, (a) collect a lump-sum payment from QF equal to the amount of any payments already made to QF that the GPSC denied recovery of and (b) adjust the payments made under this Agreement to the amount which Georgia Power is authorized to recover from its ratepayers.

15.2 GPSC: Approval of Agreement Pursuant to the Final Order.

15.2.1 Pursuant to the Final Order, Georgia Power will submit this Agreement to the GPSC staff for review to determine whether any negotiated modification to the form of Standard Contract for the Purchase of Non-Firm Energy from a Qualifying Facility is material enough to require separate GPSC approval. Pursuant to the Final Order, this Agreement will be deemed certified under O.C.G.A. § 46-3A-4 absent any contrary indication from the GPSC staff within fifteen (15) Days after Georgia Power's submittal of the Agreement for staff's review. In such case, the Effective Date of this Agreement will be the date that is fifteen (15) Days after Georgia Power's submittal of the Agreement for GPSC staff's review.

15.2.2 If the GPSC staff determines that separate GPSC review and approval of the Agreement is required, then pursuant to the Final Order, Georgia Power will file this Agreement with the GPSC for review (such filing date, the "Agreement Submission Date").

(i) If the GPSC issues an order that certifies this Agreement or deems this Agreement certified under O.C.G.A. § 46-3A-4 ("GPSC Certification Order") without any modification or condition, the Effective Date of this Agreement will be the date of the GPSC Certification Order.

(ii) If the GPSC issues a GPSC Certification Order with any modification or condition that is applicable to this Agreement and all such modifications and conditions are acceptable to Georgia Power, the Parties will promptly undertake good faith efforts to negotiate an amendment to this Agreement to address such modifications and conditions. If the Parties execute such an amendment to this Agreement, Georgia Power will promptly file such amendment with the GPSC to confirm compliance with the GPSC Certification Order. The Effective Date of this Agreement, as so amended, will be ten (10) Days following the date that Georgia Power files such amendment with the GPSC. If the Parties are unable to reach agreement on any such amendment to this Agreement within ninety (90) Days after the date of the GPSC Certification Order, Georgia Power will submit the dispute to the GPSC for resolution; provided, however, that QF may terminate this Agreement by providing written notice to Georgia Power and neither Party will have any liability to the other Party after such termination of this Agreement.

(iii) If the GPSC issues a GPSC Certification Order with any modification or condition that is applicable to this Agreement and such modifications and conditions are not acceptable to Georgia Power, Georgia Power must appeal the GPSC Certification Order, and then the applicable Governmental Authority will determine the rights and obligations of the Parties under this Agreement pursuant to Legal Requirements, including the determination of the Effective Date; provided, however, that QF may terminate this Agreement by providing written notice to Georgia Power at any time after the Agreement Submission Date until the issuance of any final, unappealable decision by the applicable Governmental Authority. Following termination of this Agreement pursuant to this Section 15.2.2(iii), neither Party will have any liability to the other Party.

(iv) If, within two hundred forty (240) Days after the Agreement Submission Date, the GPSC either (A) issues an order declining to certify or deem this Agreement certified, or (B) fails to issue a GPSC Certification Order certifying or deeming this Agreement certified, this Agreement will terminate; provided, however, QF may terminate this Agreement by providing written notice to Georgia Power at any time after the Agreement Submission Date until the earlier to occur of either (A) or (B). Following termination of this Agreement pursuant to this Section 15.2.2(iv), neither Party will have any liability to the other Party.

15.3 FERC: Recovery of Payments from Ratepayers. Notwithstanding any other provision of this Agreement, if Georgia Power is denied the authorization of the FERC to recover from its FERC jurisdictional customers any or all of the payments already made or required or contemplated to be made to QF pursuant to this Agreement, Georgia Power may, at its sole option, (a) collect a lump-sum payment from QF equal to the amount of any payments already made to QF that the FERC denied recovery of and (b) adjust the payments made under this Agreement to the amount which Georgia Power is authorized to recover from its FERC jurisdictional customers.

15.4 FERC: Reduction of Rates. In the event the FERC imposes a rule, regulation, order or other requirement which requires (by specific reference to this Agreement, by general order referencing all of Georgia Power's power purchase agreements, or otherwise) a reduction in the energy rates charged under this Agreement, QF agrees to be bound by such reduction and agrees to adjust the energy rates charged hereunder to the amounts permitted by the FERC.

SECTION 16: INDEMNIFICATION

16.1 Scope of Indemnity. To the fullest extent authorized by applicable Legal Requirements, QF expressly agrees to indemnify, hold harmless and defend Georgia Power 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: (a) the development, construction, use, ownership or operation of the Facility; (b) acts or omissions of QF or its Representatives in connection with the performance of, or failure to perform, QF's obligations or representations, warranties, or covenants under this Agreement (including any failure to comply with any Consent or applicable Legal Requirement); (c) a representation or warranty of QF (or its Affiliate) being false or misleading in any material respect when made or when deemed made; (d) activities (including prior uses of third parties) on QF's side of the Point of Delivery; or (e) any negligence or willful misconduct of QF or its Representatives, except to the extent such loss, damage or injury is the result of the negligence or willful misconduct of Georgia Power.

16.2 Notice of Proceedings. An Indemnified Party that becomes entitled to indemnification under this Agreement will promptly notify QF of any claim or proceeding in respect of which it is to be indemnified. Such notice will be given as soon as reasonably practicable after the Indemnified Party obligated to give such notice becomes aware of such claim or proceeding. Failure to give such notice will not excuse an indemnification obligation except to the extent failure to provide notice prejudices QF. QF will assume the defense thereof with counsel designated by QF; provided, however, that if the defendants in any such action include both the Indemnified Party and QF 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 QF, the Indemnified Party will have the right to select and be represented by separate counsel, at the expense of QF. If QF fails to assume the defense of a claim, the indemnification of which is required under this Agreement, the Indemnified Party may, at the expense of QF, contest, settle, or pay such claim; provided, however, that settlement or full payment of any such claim may be made only with QF's consent or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement.

SECTION 17: INSURANCE

17.1 Insurance Required of QF. Throughout the Term, QF 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 Section 17.

17.2 Proof of Insurance. Georgia Power, in its sole discretion, may require QF to deliver to Georgia Power, at any time during the Term, but at least thirty (30) Days after the Effective Date and thereafter annually on the Commercial Operation Date anniversary, a certificate of insurance certifying QF's coverage under an insurance policy(ies) issued by a reputable insurance company, with a minimum AM Best rating of A- VII, authorized to do business in the state where the Facility is located.

17.3 General Terms. Upon the Commercial Operation Date, the required insurance coverage must contain broad form contractual liability coverage, specifically covering acts arising out of or caused by the operation of the Facility or by QF's failure to maintain the Facility in satisfactory and safe operating condition. QF's insurance must be primary for any activity arising out of this Agreement. Insurance or self-insurance maintained by Georgia Power or other additional insureds is in excess of QF's insurance, contingent and non-contributory. To the extent allowed by applicable Legal Requirements, Georgia Power and its Representatives must be additional insureds under the commercial general liability policy, auto liability policy, excess/umbrella policy and pollution liability policy. To the extent allowed by applicable Legal Requirements, QF waives, and must require its insurers to waive, a right of subrogation against Georgia Power and its Representatives for the coverages described below.

17.4 General Liability Insurance. This insurance policy must provide the following coverage, which can be exceeded by QF and may be met through any combination of primary insurance and following form excess or umbrella insurance, so long as the combined limits meet requirements of this Agreement:

17.4.1 Commercial general liability insurance in an "occurrence" form with bodily injury and property damage combined liability limits of not less than twenty million dollars ($20,000,000.00) per

occurrence; provided, however, (i) QF may use any combination of primary or excess policies to satisfy the overall limit requirements; and (ii) if QF uses a "claims-made" policy, it must maintain continuous coverage in effect for at least five (5) years beyond termination of this Agreement, through continuous renewal of the original policy or by purchasing extended discovery period or retroactive insurance dated back to the Effective Date of this Agreement.

17.4.2 Coverage must include broad form contractual liability and a separation of insureds provision.

17.5 Additional Insurance. In addition to the requirements above, QF must acquire and maintain throughout the Term, the following additional types of insurance:

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

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

17.5.3 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 into or upon land, the atmosphere or any water course or body of water will be maintained, with limits not less than one million dollars ($1,000,000.00) per occurrence or claim; provided, however, that, if QF uses a "claims-made" policy, the policy must maintain continuous coverage in effect for at least five (5) years beyond termination of this Agreement through continuous renewal of the original policy or by purchasing extended discovery period retroactive insurance dated back to the Effective Date of this Agreement.

17.5.4 All Risk Property. Limits sufficient to cover the full replacement cost of the Facility.

17.6 Notice of Change or Cancellation. QF must notify Georgia Power at least thirty (30) Days prior to the effective date of any cancellation, with the exception of a ten (10) Days' notice for nonpayment of premium. Furthermore, QF agrees to notify Georgia Power at least thirty (30) Days prior to the effective date of any known material change in a required policy.

17.7 Payment of Premiums. QF will pay all premiums and other charges due on each insurance policy and will keep all coverage in force throughout the Term of this Agreement.

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

SECTION 18: FORCE MAJEURE

18.1 Definition of Force Majeure Event. For the purposes of this Agreement, a "**Force Majeure Event**" as to a Party means any occurrence, nonoccurrence or set of circumstances that prevents a Party, in whole or in part, from performing any of its obligations or satisfying any conditions under this Agreement and that is beyond the reasonable control of such Party (including such Party's contractors), and is not caused by such Party's (including such Party's contractors) negligence, lack of due diligence, or failure to follow Prudent Industry Practices, or by such Party's breach of this Agreement. 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, unless, in the case of the Facility only, such equipment failure or damage results directly from an event that would otherwise constitute a Force Majeure Event hereunder; (iv) changes in market conditions that affect the cost or availability of equipment, materials, supplies or services, including the Facility's fuel supply; (v) failure of a Party's contractors, suppliers or vendors, unless such failure is caused by an event that would otherwise constitute a Force Majeure Event hereunder, if directly experienced by the Party; or (vi) any event, including a change in any Legal Requirement or accounting standard, that requires Georgia Power to consolidate QF or any of its Affiliates or permitted assigns as a VIE in Georgia Power's financial statements.

18.2 No Breach or Liability. If a Force Majeure Event occurs, subject to compliance with Section 18.4, the affected Party will be excused from performance of its obligations hereunder, other than payment obligations that accrued prior to the declaration of the Force Majeure Event, and will not be construed to be in default in respect of such obligations to the extent that, and for so long as, failure to perform is due to a Force Majeure Event.

18.3 Mitigation. Following the occurrence of a Force Majeure Event, and as a condition to relief under Section 18.3, the affected Party must:

18.3.1 give the other Party notice thereof, followed by written notice if the first notice is not written, as promptly as possible after such Party becomes aware of such Force Majeure Event, describing the particulars of such Force Majeure Event (and provided that if QF is the affected Party, QF provides Georgia Power with information reasonably required to determine the amount of the reduction of the Facility Capability, if any);

18.3.2 remedy its inability to perform as soon as reasonably practicable; provided, however, that this Section 18.3 will not require the settlement of any non-site specific strike, walkout, lockout or other general labor dispute on terms which, in the sole judgment of the affected Party, are contrary to its interest; and

18.3.3 when the affected Party is able to resume performance of its obligations under this Agreement, the affected Party will promptly provide written notice to the other Party, promptly resume such performance, and provide the other Party with a written certification from an independent, registered engineer reasonably acceptable to such other Party that the Force Majeure Event has been cured.

18.4 Suspension of Performance. The suspension of performance due to a Force Majeure Event under Section 18.3 will be of no greater scope and of no longer duration than is required by such Force Majeure Event. No Force Majeure Event will extend this Agreement beyond the stated Term.

18.5 Extended Force Majeure Event.

18.5.1 The Party not prevented from performing its obligations due to a Force Majeure Event may at any time terminate this Agreement effective upon ten (10) Days' prior written notice to the affected Party if the affected Party remains unable to perform its obligations under this Agreement twelve (12) Months following the initial suspension of performance resulting from the Force Majeure Event. The twelve (12)-Month period need not be continuous if each period of suspension of performance comprising the twelve (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.

18.5.2 Upon any termination of this Agreement as provided in Section 18.5, the Parties will have no further liability or obligation to each other, except for any obligation arising prior to the date of such termination.

SECTION 19: DISPUTE RESOLUTION

19.1 Notice of Dispute; Dispute Resolution Process. Either Party ("**Disputing Party**") has the right to give notice to the other Party ("**Responding Party**") that the Responding Party is not performing in accordance with the terms and conditions of this Agreement. Such notice (the "**Notice of Dispute**") will describe with specificity the basis for the Disputing Party's belief and may propose a resolution of such dispute. Within fifteen (15) Business Days after receiving the Notice of Dispute, the Responding Party will provide the Disputing Party with a written response to the Notice of Dispute, which will describe with specificity the basis for the Responding Party's position and which may include additional issues (if any) with respect to the dispute raised by the Notice of Dispute and may propose a resolution of such dispute (the "**Dispute Response**"). For the avoidance of doubt, this Section 19.1 will not apply to a billing dispute until the completion of the dispute resolution process for billing disputes set forth in Section 11.2. Within five (5) Business Days after the submission of the Dispute Response, the dispute will be submitted to a designated senior Representative of QF and a designated senior Representative of Georgia Power for resolution. If the designated senior Representatives are unable to resolve the dispute to the mutual satisfaction of the Parties within twenty (20) Business Days from the submission to such designated senior Representatives, or such other period as the Parties may agree upon, either Party may pursue such rights and remedies as may be available under applicable law or in equity subject to the terms and conditions of this Agreement.

SECTION 20: MISCELLANEOUS

20.1 Assignment.

20.1.1 QF may not assign this Agreement or any portion thereof to any Person without the prior written consent of Georgia Power; provided, however, QF may, without the consent of Georgia Power, assign this Agreement to a financing party for collateral security purposes in connection with any financing or refinancing of the Facility. Any proposed assignee of QF must (i) agree to assume QF's obligations hereunder, and (ii) deliver to Georgia Power such assurances regarding its creditworthiness and its ability to perform all obligations of QF hereunder, as Georgia Power may reasonably request, and (iii) cooperate with Georgia Power to comply with any Legal Requirement that results from such assignment.

20.1.2 Any assignment of this Agreement made in compliance with Section 20.1.1 will constitute an acceptance and assumption of such obligations by the assignee, a novation of the assignee in place of QF with respect to such obligations (and any related interests so transferred), and a release and discharge by Georgia Power of QF from, and an agreement by Georgia Power not to make any claim for payment, liability, or otherwise against QF with respect to, such obligations from and after the effective date of the assignment.

20.1.3 Georgia Power may not assign this Agreement or any portion thereof to any Person without the prior written consent of QF; provided, however, Georgia Power may without the consent of QF and with the approval of the GPSC, assign this Agreement to an Affiliate subject to the jurisdiction of a state regulatory commission.

20.2 Reimbursement for Georgia Power's Costs from Assignments. QF agrees that, if QF assigns this Agreement and such assignment requires Georgia Power's written consent, as such transaction is described in Section 20.1.1, QF will pay Georgia Power the amount of twenty-five thousand dollars ($25,000.00) per occurrence for each proposed transaction. For the avoidance of doubt, if QF requests Georgia Power's consent under Section 20.1.1, and Georgia Power undertakes drafting of consent documents or amendments to provide such consent, and QF thereafter fails to consummate the proposed transaction, Georgia Power reserves the right, in its sole discretion, to require QF to provide reimbursement to Georgia Power pursuant to this Section 20.2.

20.3 General Requirements. Any consent required by Section 20.1.1 may not be unreasonably withheld, conditioned or delayed; provided, however, that neither Party will be required to accept any

limitation of its rights under this Agreement or expansion of the liability, risks or obligations imposed on it under this Agreement (including changes in accounting treatment). It will be reasonable for either Party to condition its consent required by Section 20.1 on the execution of amendments to this Agreement that are reasonably determined by such Party to be necessary to preserve the value and protection afforded to such Party under this Agreement. Any purported assignment of this Agreement that is not in compliance with the applicable provisions of Section 20.1 and Section 20.2 will be null and void, and of no force and effect.

20.4 Taxes.

20.4.1 QF will pay, or cause to be paid, all Taxes on or with respect to: (i) the Facility, including its development, permitting, design, engineering, procurement, construction, testing, startup, ownership, leasing, financing, operation, and maintenance; and (ii) the production and delivery of energy and Electrical Products to be provided to Georgia Power arising prior to the time of QF's delivery of such Energy and Electrical Products to Georgia Power at the Point of Delivery.

20.4.2 Georgia Power will pay or cause to be paid, all Taxes with respect to Energy received by Georgia Power arising after the time such Energy is delivered by QF to the Point of Delivery, which Taxes may include such sales, use, excise or other similar Taxes on the sale to Georgia Power and purchase from QF of Energy pursuant to this Agreement.

20.4.3 Each Party will use reasonable efforts to implement and administer the provisions of this Agreement in accordance with the intent of the Parties to minimize Taxes, so long as neither Party is materially adversely affected by such efforts.

20.4.4 If QF is required by law or regulation to remit or pay Taxes that are Georgia Power's responsibility hereunder, QF may include such Taxes in the next Monthly invoice (on an After-Tax Basis) and Georgia Power will pay in accordance with Article 11. Conversely, if Georgia Power is required by law or regulation to pay Taxes that are QF's responsibility hereunder, Georgia Power may deduct the amount of any such Taxes from the amounts otherwise due to QF under this Agreement (on an After-Tax Basis). Any refund associated with such Taxes will be handled in the same manner. Nothing herein will obligate or cause a Party to pay or be liable to pay any Taxes from which it is exempt under applicable Legal Requirements.

20.4.5 Notwithstanding anything to the contrary in this Agreement, each Party will bear sole responsibility for the reporting and payment of any Taxes on such Party's revenues or income.

20.5 Georgia Power's Agent. Wherever this Agreement requires QF to provide information, schedules, notice or the like to, or to take direction from, Georgia Power, QF will provide information, schedules, notice or the like to, or receive from, Georgia Power or such agent of Georgia Power as Georgia Power may direct from time to time.

20.6 Confidentiality.

20.6.1 The Parties acknowledge that portions of this Agreement 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 five (5) years from the date hereof for Confidential Information contained in this Agreement; and (ii) for a period of five (5) years from the date of disclosure for additional Confidential Information disclosed during the Term, it will not, without the written consent of the other Party or as otherwise provided herein, disclose to any third party (other than to Affiliates of the disclosing Party or consultants and advisors to such Affiliates and the disclosing Party who need to know such information in connection with the performance of their duties or services for such Affiliates or the disclosing Party), such portions of this Agreement, or the terms or provisions hereof, or any additional Confidential Information disclosed pursuant to such Party's performance of this Agreement and identified as Confidential Information at the time of such disclosure, except to the extent that disclosure to a third party

is required by Legal Requirements, or by a Governmental Authority having jurisdiction over the disclosing Party.

20.6.2 The Parties agree to seek confidential treatment of the Confidential Information in this Agreement from the GPSC, but acknowledge that certain terms, conditions and provisions of this Agreement may need to be disclosed in connection with Georgia Power's regulatory obligations before the GPSC. No assurance or commitment is made regarding the ability of Georgia Power to obtain the requested confidential treatment in such proceedings or otherwise. The Parties agree to seek confidential treatment of the Confidential Information in this Agreement from FERC but acknowledge that certain Confidential Information may be made publicly available by FERC.

20.6.3 The terms of Section 20.5 will survive the termination or expiration of this Agreement. With respect to any Confidential Information that constitutes a "**trade secret**" under any applicable law, the Parties' obligations under Section 20.5 will apply for the life of such trade secret.

20.7 No Partnership. QF and Georgia Power do not intend for this Agreement to, and this Agreement does not, create any association, joint venture, partnership, association taxable as a corporation, or other entity for the conduct of any business for profit.

20.8 Successors and Assigns. This Agreement will inure to the benefit of and be binding upon any respective successors and assigns of QF and of Georgia Power.

20.9 No Third-Party Benefit. Nothing in this Agreement will be construed to create any duty, obligation or liability of Georgia Power or QF to any Person or entity not a party to this Agreement.

20.10 No Georgia Power Affiliate Liability. Notwithstanding any other provision of this Agreement, no Affiliate of Georgia Power (including any Affiliate of Georgia Power acting as Georgia Power's agent where Georgia Power's agent is given certain authorities pursuant hereto) will have any liability whatsoever for any performance, nonperformance or delay in performance under this Agreement.

20.11 Time of Essence; No Waiver. Time is of the essence of this Agreement. Neither Georgia Power's nor QF's failure to enforce any provision or provisions of this Agreement will in any way be construed as a waiver of any such provision or provisions as to any future violation thereof, nor prevent it from enforcing each and every other provision of this Agreement at such time or at any time thereafter. The waiver by either Georgia Power or QF of any right or remedy will not constitute a waiver of its right to assert said right or remedy, at any time thereafter, or of any other right or remedy available to it at the time of or any time after such waiver.

20.12 Amendments. This Agreement may be amended by and only by a written instrument duly executed by each of QF and Georgia Power, which has received any and all approvals of Governmental Authorities of competent jurisdiction necessary for the effectiveness thereof.

20.13 Notice. Unless otherwise specified, where notice is required by this Agreement, such 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; or (ii) upon the next Business Day, when sent by overnight delivery, postage prepaid using a recognized courier service. In all instances, notice to the respective Parties should be directed as follows:

If to Georgia Power:

Georgia Power Company
241 Ralph McGill Boulevard N.E.
Atlanta, Georgia 30308
Attention: William Houser BIN 10196

If to QF:

Alligator Creek Solar, LLC
c/o Heelstone Renewable Energy, LLC
1414 Raleigh Road, Suite 210
Chapel Hill, North Carolina 27517
Attention: General Counsel
legal@heelstoneenergy.com
Phone: (844) 453-8633

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

20.14 Press Releases. Any public statement (including any news release, internet/website/social media posting, or other publication) concerning this Agreement or the transactions described herein will be reviewed and agreed upon by the Parties before release to the public.

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

20.16 Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

20.17 Section Headings. The descriptive headings of the various Sections of this Agreement have been inserted for convenience of reference only and will in no way modify or restrict any of the terms or provisions hereof.

20.18 Entire Agreement. This Agreement (including the attached Appendices) constitutes the entire understanding between the Parties regarding the subject matter hereof, and supersedes any previous agreements between the Parties regarding the subject matter hereof. The Parties have entered into this Agreement in reliance upon the representations and mutual undertakings contained herein and not in reliance upon any oral or written representations or information provided by one Party to the other Party not contained or incorporated herein.

20.19 Interpretation. In this Agreement, unless the context otherwise requires, the singular includes the plural and any pronoun includes the corresponding masculine, feminine and neuter forms. The words "hereof," "herein," "hereto" and "hereunder" and words of similar import when used in this Agreement, unless otherwise expressly specified, refer to this Agreement as a whole and not to any particular provision of this Agreement. Whenever the term "including" is used herein in connection with a listing of items included within a prior reference, such listing will be interpreted to be illustrative only, and will not be interpreted as a limitation on or exclusive listing of the items included within the prior reference. Any reference in this Agreement to "Section" or "Appendix" will be references to this Agreement unless otherwise stated, and all such Appendices will be incorporated into this Agreement by reference. Unless specified otherwise, a reference to a given agreement or instrument, and all schedules, exhibits, appendices and attachments thereto, will be a reference to that agreement or instrument as modified, amended, supplemented and restated, and in effect from time to time. Unless otherwise stated, any reference in this Agreement to any entity includes its permitted successors and assigns, and in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

20.20 Governing Law. The validity, interpretation and performance of this Agreement, and each of its provisions, will be governed by the laws of the state of Georgia, without giving effect to principles of conflict of laws that would require the application of laws of another jurisdiction. The Parties agree that the state and federal courts, as applicable, of the state of Georgia will have exclusive jurisdiction for the resolution of disputes under this Agreement and the Parties consent to such jurisdiction.

20.21 Submission to Jurisdiction. ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY

WILL BE BROUGHT IN THE FEDERAL DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION, OR THE SUPERIOR COURT OF FULTON COUNTY, GEORGIA, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

20.22 Transfer of Information Acknowledgement. QF agrees to execute contemporaneously with the execution of this Agreement, the Transfer of Information Acknowledgement attached as **Appendix C** and Georgia Power agrees to the limited use and confidential treatment of such information as set forth in **Appendix C**.

20.23 Severability. If any term or provision of this Agreement or the application thereof to any Person or circumstance will to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable, will not be affected thereby, and each term and provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

[Signature page follows]

IN WITNESS WHEREOF, QF and Georgia Power have caused this Agreement to be executed by their duly authorized representatives on the day and year first above written.

ALLIGATOR CREEK SOLAR, LLC:

"QF"

By: _____

Title: President

Date: 4/14/2022

GEORGIA POWER COMPANY

"Georgia Power"

By: _____

Title: VP - Pricing & Planning

Date: 4/27/2022

APPENDIX A

FACILITY DESCRIPTION AND SITE

The Facility Description and Site will be defined as:

Site:

The land and rights-of-way of the 80.0 MW Facility known as Alligator Creek Solar located in Wheeler County, Georgia. The GPS Coordinate Location is 32.1057 latitude and -82.84768 longitude.

APPENDIX B

PERFORMANCE TESTING

[To be developed and mutually agreed upon by the Parties, such agreement not to be unreasonably withheld.]

APPENDIX C

TRANSFER OF INFORMATION ACKNOWLEDGEMENT

Alligator Creek Solar, LLC ("**QF**") and Georgia Power Company ("**Georgia Power**") have entered into that certain Contract For The Purchase Of Non-Firm Energy From A Qualifying Facility ("**Agreement**"), dated as of April 27, 2022. The Agreement 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 QF to Georgia Power and/or Southern Company Services, Inc. as agent for the transmission owning subsidiaries of Southern Company (Alabama Power Company, Georgia Power Company, and Mississippi Power Company). QF acknowledges that such information is being provided for the purposes of operational implementation and administration of the Agreement (which includes conducting Georgia Power Company'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 for the purpose of implementing and administering the Agreement (including conducting Georgia Power's system operations and dispatch functions). QF understands that such information will not be used or disseminated in any manner contrary to the confidentiality provision(s) in the Agreement or in violation of the Federal Energy Regulatory Commission's Standards of Conduct. QF'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. QF also acknowledges that QF is not providing the information under duress or coercion. In accordance with requirements of the Federal Energy Regulatory Commission, Southern Company Services, Inc. may post on OASIS the fact of QF'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 QF:

By: _____

Name: Jennifer L. Kerrigan

Title: Secretary

Date: 4/27/2022

APPENDIX D

NETWORK UPGRADES-INTERCONNECTION; NETWORK UPGRADES-DELIVERY

1. Network Upgrades-Interconnection and Estimated Network Upgrades-Interconnection Costs (as of Execution Date):

The Estimated Network Upgrades-Interconnection Costs are subject to change based on actual Network Upgrades-Interconnection work.

Description of Project	Facility Owner	Project Completion Time	Cost Estimate	Notes*

New IC-894 115 kV Interconnecting Substation
• New 115 kV ring bus interconnection substation consisting of three (3) 115 kV three-cycle gang operated breakers, control house, station service equipment, and batteries.
• Install DCUB line protection scheme for the Eastman Primary (GTC) 115 kV line.
  ○ Install three 115 kV CCVT's and necessary PLC equipment (line traps, tuners, etc.).
• Install DCUB line protection scheme for the GI-126 115 kV Line
  ○ Install three 115 kV CCVT's and necessary PLC equipment (line traps, tuners, etc.).
  ○ Breaker failure transfer trip - Install a standard dual channel directional transfer trip transmitter panel for the Eastman Primary (GTC) 115 kV line.
  ○ Breaker failure transfer trip - Install a standard dual channel bi-directional transfer trip panel for the GI-126 115 kV line.
• Anti-Islanding Protection
  ○ Install a single channel transfer trip receiver panel on the Eastman Primary (GTC) 115 kV line.
  ○ Install a single channel bi-directional transfer trip panel between IC-894 and GI-126 interconnecting substations.
  ○ Install one anti-islanding relay.
• Environmental Analysis and Cultural Resources Assessment cost.
• Land transfer costs.
• Final grading and drainage cost.
• Substation Access control cost.
	GPC	**18 months**	**$4,750,000**	1-4, 8

Eastman Primary – Vidalia 115 kV Line • Loop line into new IC-894 interconnecting substation.	**GPC**	**18 months**	**$430,000**	4-5
Vidalia 115 kV Substation • IC-894 115 kV line: Use existing DCUB line protection panel. ○ Update Relay Settings. • Breaker failure transfer trip: Use existing • Anti-Islanding Protection: Use existing	**GPC**	**18 months**	**$25,000**	
Total Cost:			**$5,205,000**	

*The Notes column refers to Notes in interconnection study report.

2. Network Upgrades-Delivery and Estimated Network Upgrades-Delivery Costs:

Georgia Power will construct the Network Upgrades-Delivery to the Georgia Power Electric System using Prudent Industry Practices to complete the Network Upgrades-Delivery to the Georgia Power Electric System by the applicable estimated completion time set forth in the table below. Georgia Power will not be required to undertake any action that is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, or Applicable Legal Requirements. If Georgia Power expects that it will not be able to complete any Network Upgrades-Delivery to the Georgia Power Electric System by the applicable estimated completion time, Georgia Power will notify QF and will exercise Prudent Industry Practices to complete such Network Upgrades-Delivery to the Georgia Power Electric System by the earliest reasonable date thereafter.

Description of Project	Facility Owner	Estimated Project Completion Date	Cost Estimate	Notes
Eastman Primary – Vidalia 115 kV TL Rebuild 7.7 miles of 115 kV TL from VIDALIA B1 115kV to (NEW) GI-126RING2 115kV with 795 ACSR at 100°C	GPC	6/1/2024	$ 8,500,000	1
Eastman Primary – Vidalia 115 kV TL Rebuild 20.0 miles of 115 kV TL from: EASTMAN PRI 115kV to DODGE EM J 115kV (1.5 mi) DODGE EM J 115kV to CHAUNCY 115kV (12.6 mi) CHAUNCY 115kV to MCRAE 115kV (3.8 mi) MCRAE 115kV to SUGAR CRK J 115kV (1.8 mi) SUGAR CRK J 115kV to (NEW) IC-894RING2 115kV (0.2 mi) with 795 ACSR at 100°C	GPC	6/1/2026	$22,000,000	1,2
Total Cost	**$30,500,000**			

Notes:

1 All projects are required for full delivery at COD under the PPA.
2 The PPA COD will coincide with the completion date of the Eastman Primary – Vidalia 115kV TL rebu
which is currently estimated at 6/1/2026.