

Georgia Power Company

Qualified Facility Basics Package



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Section I. What is a Qualified Facility?

A **Qualifying Facility (QF)** is a generating facility which meets the requirements for QF status under the Public Utility Regulatory Policies Act of 1978 ([PURPA](#)) and part 292 of the Commission's Regulations ([18 C.F.R. Part 292](#)), and which has obtained certification of its QF status.

There are two types of QFs: cogeneration facilities and small power production facilities.

A **Cogeneration Facility** is a generating facility that sequentially produces electricity and another form of useful thermal energy (such as heat or steam) used for industrial, commercial, residential or institutional purposes, and otherwise meets the requirements of 18 C.F.R. §§ 292.203(b) and 292.205 for operation, efficiency and use of energy output.

A **Small Power Production Facility** is a generating facility whose primary energy source is renewable (hydro, wind, solar, etc.), biomass, waste, or geothermal resources, and that otherwise meets the requirements of 18 C.F.R. §§ 292.203(a), 292.203(c) and 292.204. Small power production facilities are limited in size to 80 MW, with the exception of certain types of facilities certified prior to 1995 and designated as "eligible" under section 3(17)(E) of the Federal Power Act ([FPA](#)) ([16 U.S.C. § 796\(17\)\(E\)](#)), which have no size limitation.

PURPA - The Public Utility Regulatory Policies Act of 1978

- Part of legislation proposed by President Carter to combat the "energy crisis," and the perceived shortage of natural gas.
- Primary purposes:
 - To promote conservation (through cogeneration of both steam and electricity).
 - To encourage greater use of alternative sources of power generation.
- Credited with helping the development of re-newables.
- Established a class of non-utility generators comprised of small power producers and co-generators - collectively referred to as "Qualifying Facilities" or "QFs".
- Required utilities to buy power from independent companies that could produce power for less than the utility's avoided cost.

- Intended to accomplish its objectives while protecting consumers from having to pay more for power from QFs than they would pay for power produced or purchased by the utility.
- PURPA established a partnership between the FERC and the states to implement its terms. The FERC established general guidelines and, subject to those guidelines, the states determined "avoided cost" and other key elements of utilities' power purchase obligation.

Section II. Rules in Georgia concerning a Qualified Facility

Georgia Public Service Commission - Docket No. 4822-U

- Approves methodologies for full avoided cost payments made by GPC and SEPCO to QFs pursuant to PURPA

- Incorporates the QFs into the RFP process
 - QF < 5 MW are exempt from RFP process and get standard contract at price of first displaced bidder.
 - QF > 5 MW bid into RFP process with minimum price. If among winning bids, will receive price of first displaced bidder
 - 5 MW < QF < 30 MW will have a simplified RFP process.

- Provides for energy, long-term capacity, and short-term capacity payments

- Capacity payments determined by needs stated in the IRP

- Short-term capacity needs stated in fall planning process

- Avoided Capacity Cost is based on the unit needs as specified in the IRP (baseload, peaker, etc.) and is composed of:
 - Capital Cost (converted into an Economic Carrying Cost ECC)
 - Fixed O&M (indexed to actual future prices)
 - Capital Additions (indexed to actual future prices)
 - Fuel Inventory (indexed to actual future prices)
 - O&M adders (indexed to actual future prices)
 - Transmission (indexed to actual future prices)
 - Avoided Energy Costs are calculated as:

$$\begin{aligned} &+ (\text{Territorial System Lambda}) * (\text{Marginal Cost Multiplier}) * (\text{Avg. Fuel Portfolio Cost}) \\ & \hspace{10em} (\text{Spot Market Fuel Cost}) \\ & \hspace{4em} + (\text{Avoided O\&M Costs}) \\ & \hspace{4em} + (\text{Avoided Environmental Costs}) \\ & \hspace{4em} + (\text{Avoided Start-Up Costs}) \end{aligned}$$

- QF shall bear the cost of interconnections and any changes that result for the transmission system.
- QF is required to operate during peaking hours at an average capacity factor of 90%.
- Energy payment information is sent out by 4:00 pm the day before delivery and there is no “true up” for these prices.
- Energy payments are recovered by GPC and SAV through the Fuel Cost Recovery mechanism.

Avoided Costs

- FERC - avoided costs are the "incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source"
- FERC regulations permit QFs to elect between being paid the utility's avoided cost calculated at the time the power is delivered, or being paid the utility's avoided cost calculated at the time the obligation is incurred, regardless of when the power is actually delivered (the "lock-in" rule).
- Avoided cost is the marginal cost for the same amount of energy acquired through another means such as construction of a new production facility or purchase from an alternate supplier

Section III. Minimum Requirements to conduct business with Georgia Power Company

- The Georgia Public Service Commission (PSC) has jurisdiction over the methodology and application of payments to QFs, as specified by FERC and PURPA.
- A QF may receive payments from Georgia Power based on Georgia Power's Avoided Costs, as specified in PSC Docket 4822-U.
- Georgia Power makes an annual filing in March to the PSC of its projected Avoided Costs.
- A QF may enter into a Standard QF contract (as filed at the PSC) with Georgia Power to receive Avoided Costs payments.
- QFs may enter into a firm contract (capacity and energy payments) or a non-firm contract (energy only).
- Actual Avoided Energy Costs payments are based on day-ahead projections of the hourly avoided cost of energy.
- Capacity payments are based on the projected annual cost as contained in the filing.

Georgia Power Company 2009 Avoided Cost Projections

Year	Avoided Capacity Cost	Avoided Energy Cost		
	\$/KW-yr	Peak Season: Peak Hours \$/MWh	Peak Season: Off-Peak Hours \$/MWh	Annual All Hours \$/MWh
2009	0.00	78.37	55.44	55.68
2010	0.00	90.30	58.81	61.03
2011	0.00	92.05	60.08	61.85
2012	0.00	123.26	75.12	74.16
2013	0.00	139.98	81.23	80.12
2014	0.00	146.76	84.49	83.33
2015	92.31	146.25	85.82	84.94
2016	95.30	151.27	88.56	87.87
2017	98.38	151.64	87.58	88.88
2018	101.57	156.67	90.61	91.56

Notes:

1. The peak period used in these projections consists of the June-September, weekday hours 9AM Through 10PM Eastern Daylight Time. All other hours are off-peak.
2. Transmission losses are not included.
3. The start-up and commitment component adders for capacity that Avoids a combustion turbine unit are equal to zero.
4. These estimates are for informational purposes only.

YEAR: 2009 \$/MWh	System Territorial Spot Fuel Lambda	Marginal Cost Multiplier	Fuel Cost Multiplier	Variable O & M Component Adder	Emissions Component Adder (SO ₂ , Nox & HG)	Start-up & Commitment Component Adder	Total \$/MWh For QF Block
Peak Period	58.07	1.0	1.0644	3.27	5.61	7.68	78.37
Off-Peak Period	41.53	1.0	1.0644	2.76	6.62	1.86	55.44
All Hours	40.22	1.0	1.0644	2.79	6.47	3.61	55.68

YEAR: 2010 \$/MWh	System Territorial Spot Fuel Lambda	Marginal Cost Multiplier	Fuel Cost Multiplier	Variable O & M Component Adder	Emissions Component Adder (SO ₂ , Nox & HG)	Start-up & Commitment Component Adder	Total \$/MWh For QF Block
Peak Period	66.72	1.0	1.0976	3.0600	3.74	10.27	90.30
Off-Peak Period	43.30	1.0	1.0976	2.8600	5.88	2.55	58.81
All Hours	43.10	1.0	1.0976	2.9400	5.60	5.19	61.03

Request For Proposal (RFP)

- In years in which Georgia Power has capacity needs, there is an RFP process overseen by the PSC for Purchased Power Agreements.
- In years in which there is a solicitation, the bid price is the utility's avoided costs and QFs have special bid rules for the RFP process as specified in PSC Docket 4822-U.
- All QFs above 5 MW but smaller than 30 MW that participate in the RFP process may do so using simplified bid forms.
- QFs which are 5 MWs and below may take part in the process and may accept a standard contract at the price of the first displaced bidder.
- QFs larger than 5 MW seeking long-term capacity payments will participate in the process by submitting their minimum acceptable price. Any QF whose bid is among the winning bids will receive the price submitted by the first displaced bidder.

Green Energy

- At this time, Georgia Power does not need new resources to support the Green Energy program at its current levels.
- If the Green Energy program increases in size in the future, there may be opportunities to bid generation into the program.
- The PSC has clarified which resources can qualify as green resources and they include most woody waste biomass but there are requirements for NOx emissions.

Section IV. Who to contact within Georgia Power Company concerning Qualified Facilities?

- Please contact Georgia Power Company Resource Policy & Planning department for more information on Qualified Facilities.
- The phone number for Resource Policy & Planning is 8-506-7509.
- Please send mail correspondence to :

Georgia Power Company
Resource Policy & Planning
Internal Bin # 10213
241 Ralph McGill Boulevard NE
Atlanta, Georgia 30308-3374

Section V. Helpful Websites

Helpful Websites:

Site for information on QFs

<http://www.ferc.gov/industries/electric/gen-info/qual-fac.asp>

Site for form used to seek qualification

<http://www.ferc.gov/docs-filing/hard-filing/form-556/part292.asp>

Georgia Public Service Commission

<http://www.gpscic.com>

Section VI. Notice of Intent Process and Sample Contract

QFs or Renewables Notice of Intent Process

The Proxy Price is available to all QFs and Renewables that are less than 30 MWs and intend to provide energy and capacity through the solicitation process of the RFP. The QF and/or Renewable shall provide to the Company no later than the last day that official bids are received in the RFP a Notice of Intent (NOI) that includes the following:

Company Name _____

Location of the Facility (Street Address) _____

Expected Output of the Facility (MW/kW) _____

Fuel and Technology Type _____

Operational Characteristics

Capacity Factor _____

Dispatch-Ability _____

Availability Factor _____

Projected Life of the Facility (Years) _____

Designation as a Co-Generator or Renewable _____

The QF and/or Renewable will be required to submit to the Company prior to the selection of the Competitive Tire and in accordance with the RFP Schedule, the following information:

Cost of Energy Delivered (VO&M + Fuel)

Transmission/Distribution Costs

Operation Characteristics

1. Minimum Up/Minimum Down times

Upon the QFs and/or Renewables completion of the above listed items the QF will be required to enter into a confidentiality agreement prior to receipt of its corresponding capacity price.

PRO FORMA VERSION

**STANDARD CONTRACT FOR THE
PURCHASE OF FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY**

between

and

GEORGIA POWER COMPANY

Dated as of _____

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APPENDIX A ANNUAL CAPACITY RATES

APPENDIX B PEAK PERIOD HOURS

**STANDARD CONTRACT FOR THE PURCHASE OF
FIRM CAPACITY AND ENERGY
FROM A QUALIFYING FACILITY**

This Agreement ("Agreement") is made and entered by and between _____, a _____, having its principal place of business at _____ (hereinafter referred to as "QF"), and Georgia Power Company, a corporation, organized and existing under the laws of the State of Georgia, having its principal place of business at Atlanta, Georgia (hereinafter referred to as "Georgia Power"). QF and Georgia Power may be hereinafter referred to individually as a "Party" and collectively as the "Parties."

WITNESETH:

WHEREAS, QF desires to sell, and Georgia Power desires to purchase, electricity 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-U;

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

WHEREAS, the GPSC has approved a form of Standard Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility and this Agreement conforms to the terms and conditions of such Standard Contract.

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 shall have the respective meanings set forth below:

1.1 **"Affiliate"** - of any specified entity means any other entity directly or indirectly controlling or controlled by or under direct or indirect common control with such specified entity. For purposes of this definition, "control" when used with respect to any entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

1.2 **"Annual Period"** - shall mean any one of a succession of consecutive twelve-month periods, the first of which shall begin on the Commencement of Service Date.

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

1.4 **"Business Day"** - shall mean any Day excluding Saturday and Sunday and excluding any Day on which banking institutions in Atlanta, Georgia are closed because of a federal holiday.

1.5 **"Commercial In-Service Status"** - means that (i) QF has obtained a fully executed Interconnection Agreement for the Facility; (ii) the Facility is in compliance with all applicable Facility permits; and (iii) QF has demonstrated to the satisfaction of Georgia Power the ability of the Facility to deliver the Committed Capacity.

1.6 **"Commencement of Service Date"** - means the date on which the Facility achieves Commercial In-Service Status.

1.7 **"Committed Capacity"** - means the kW capacity, as defined in Section 8.1 which QF has agreed to make available on a firm basis at the Point of Delivery.

1.8 **"Confidential Information"** - shall have the meaning set forth in Section 10.1.2.

1.9 **"Day"** - means a calendar day.

1.10 **"Dispatch Center"** - means the control and dispatching center as designated by Georgia Power from time to time in writing as being the primary control point for dispatch instructions to QF for the Facility.

1.11 **"Execution Date"** - means the date on which this Agreement is executed and delivered by both Georgia Power and QF.

1.12 **"Event of Default"** - has the meanings ascribed to it in Section 14.1 for QF and Section 14.2 for Georgia Power.

1.13 **"Facility"** - means all equipment, as described in this Agreement, used to produce electric energy and all equipment required for parallel operation with the Georgia Power Electric System.

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

1.15 **"Force Majeure Event"** - has the meaning defined in Section 19.1.

1.16 **"Georgia Power"** - shall have the meaning specified in the first paragraph of this Agreement, and its permitted successors and assigns.

1.17 **"Georgia Power Company Territorial Hourly Avoided Energy Rate"** - for each hour of a given Month, means the amount, in dollars per megawatt-hour (\$/MWh) which 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 GPSC order in Docket No. 4822-U.

1.18 **"Georgia Power Electric System"** - means collectively, the entire network of electric generating, transmission and distribution facilities, equipment and other devices owned (in whole or in part) or controlled by Georgia Power, or to which Georgia Power has the right to use, for the purposes of generating, transmitting and receiving electric energy.

1.19 **"Governmental Authority"** - means any local, state, regional or federal administrative, legal, judicial or executive agency, court, commission, department or other such entity.

1.20 **"GPSC"** - means the Georgia Public Service Commission.

1.21 **"Interconnection Agreement"** - means that certain Interconnection Agreement to be entered into by and between QF and Georgia Power containing terms and conditions governing the interconnection and parallel operation of the Facility with the Georgia Power Electric System.

1.22 **"Interest Rate"** - means the prime rate of interest as published from time to time in the Wall Street Journal or comparable successor publication.

1.23 **"kW"** - means kilowatts.

1.24 **"kWh"** - means kilowatt-hours.

1.25 **"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, which is valid and applicable to the matter in question at the time of the execution of the Agreement or anytime thereafter during the Term.

1.26 **"Month"** means a calendar Month, commencing at the beginning of the first Day of such calendar Month. **"Monthly"** - has a meaning correlative to that of Month.

1.27 **"Monthly Administration 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 11.

1.28 **"Monthly Capacity 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 the capacity of the Facility, as the same is calculated by QF as provided in Section 9.1.

1.29 **"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 10.1.

1.30 **"NERC"** - means the North American Electric Reliability Council, including any successor thereto and subdivisions thereof.

1.31 **"Party"** or **"Parties"** - means either Georgia Power or QF or both.

1.32 **"Peak Period Hours"** - means, solely for the purposes of this Agreement, the daily time periods of those Days specified in Appendix B.

1.33 **"Point of Delivery"** - means the point where QF shall deliver electric energy to Georgia Power pursuant to this Agreement as determined by the Parties.

1.34 **"Prudent Utility Practices"** - means, at a particular time, any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility 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 Utility 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.

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

1.36 **"QF"** - shall have the meaning specified in the first paragraph of this Agreement, and its permitted successors and assigns.

1.37 **"Qualifying Facility"** - shall have the meaning defined in Section 292.101(b)(1) of the regulations promulgated under PURPA, 18 C.F.R. Subpart C, Section 292.

1.38 **"Southern Operating Companies"** - means, collectively, the electric utility operating company subsidiaries of the Southern Company that own transmission assets, currently including Alabama Power Company, Georgia Power, Gulf Power Company and Mississippi Power Company.

1.39 **"Term"** - means the duration of this Agreement as specified in Section 3.1.

1.40 **"Transmission Tariff"** - means the Southern Operating Companies open access transmission tariff, FERC Electric Tariff Fourth Revised Volume No. 5, as amended or superceded from time to time.

SECTION 2: FACILITY DESIGN AND CONSTRUCTION

2.1 Facility. The Facility is a _____ generator located in _____ with a capability of producing approximately _____ of electric power.

2.2 Permits. QF hereby agrees to seek to obtain, at its sole expense, any and all governmental permits, certificates or authorizations QF is required to obtain for the operation, maintenance, testing and any necessary modification of the Facility.

2.3 Station Service. Georgia Power shall sell to QF and QF shall purchase capacity and energy as required by QF from time to time during the Term for station service or other energy needs at the applicable Georgia Power tariff rate.

2.4 Inspections. Upon reasonable prior advance notice to the QF, representatives of Georgia Power shall be entitled to inspect the operation and testing of the Facility. QF shall cooperate in such physical inspections of the Facility as may be reasonably required by Georgia Power provided that such inspections shall not materially interfere with the testing or operations of the Facility, and provided that Georgia Power complies with rules and regulations of Governmental Authorities having jurisdiction with respect to the Facility, and with the QF 's reasonable policies and procedures applicable to the Facility including, without limitation, those with respect to safety. Georgia Power's technical review and inspection of the Facility shall not be construed as endorsing the design thereof nor as any warranty of the safety, durability or reliability of the Facility.

SECTION 3: TERM

3.1 Term. The term of this Agreement shall begin on the Execution Date and shall remain in full force and effect, unless terminated earlier pursuant to this Agreement, through _____, 20___. (“Term”). Upon termination or expiration of this Agreement, the Parties shall be relieved of their obligations under this Agreement except for the obligation to pay each other all monies owed and not paid under this Agreement prior to the termination or expiration, which obligation shall survive termination or expiration.

SECTION 4: OPERATION AND MAINTENANCE OF THE FACILITY

4.1 General Standards. During the Term of this Agreement, QF shall have the sole responsibility to, and shall at its sole expense, manage, control, operate and maintain the Facility in accordance with Prudent Utility Practices and the requirements set forth in this Agreement. QF and Georgia Power agree to coordinate scheduled outages of the Facility.

4.2 Access to the Facility.

4.2.1 Representatives of Georgia Power shall at all reasonable times have access to the Facility and to property owned or controlled by QF in order to (i) to inspect, maintain, and test meters and other Georgia Power equipment; (ii) to interrupt, monitor, or measure energy generated by the Facility; (iii) to inspect the Facility; and (iv) to take such other action as may be reasonably necessary to exercise Georgia Power's rights under this Agreement.

4.2.2 In no event shall 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, shall not be construed as endorsing the design, fitness or operation of the Facility nor as a warranty or guarantee.

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

4.3.1 All such records shall 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 regulatory agencies with jurisdiction over QF; provided, however, that QF shall not dispose of or destroy any such records even after the five (5) years without thirty (30) Days prior written notice to Georgia Power.

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

4.3.3 Upon reasonable advance notice, Georgia Power shall have the right to examine the records and data of QF in order to facilitate any determination that Georgia Power is required or permitted to make under this Agreement.

4.3.4 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.

SECTION 5: DELIVERY OF CAPACITY AND ENERGY

5.1 Notice.

5.1.1 On or before _____ of each calendar year, QF shall provide Georgia Power with the estimated amounts of electricity to be generated by the Facility and delivered to Georgia Power for each Month of the following calendar year, including the time, duration and magnitude of any planned outages or reduction in capacity.

5.1.2 On or before 2:30 p.m. (Eastern Time) of each Day, QF shall provide the Dispatch Center an estimate of the hourly amounts of electric energy to be delivered at the Point of Delivery for the next succeeding Day.

5.1.3 QF shall comply with reasonable requirements of Georgia Power regarding day-to-day or hour-by-hour communications with Georgia Power relative to the performance of this Agreement.

5.2 Characteristics of the Energy. The energy delivered by QF to the Point of Delivery shall meet the specifications required by Georgia Power.

5.3 Interconnection.

5.3.1 As a condition precedent to Georgia Power's obligation to purchase electricity to be generated by QF's Facility, QF and Georgia Power shall execute an Interconnection Agreement.

5.3.2 Georgia Power shall interconnect the Facility to the Georgia Power Electric System in accordance with the Interconnection Agreement. Such interconnection shall be performed in accordance with the interconnection policies and procedures set forth in Attachment J, Procedures for Obtaining Interconnection Service, of the Transmission Tariff. QF must request and obtain interconnection of the Facility in accordance with such procedures.

SECTION 6: METERING

6.1 Metering. Georgia Power shall 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 Prudent Utility Practices. QF shall be responsible for, and shall reimburse Georgia Power for all costs and expenses 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 shall be and remain the personal property of Georgia Power.

6.2 Payment of Cost of Metering Equipment. Within ninety (90) Days after the Execution Date, Georgia Power shall develop and provide QF an estimate of all costs and expenses to be paid by QF under Section 6.1. Georgia Power shall obtain QF's consent thereto prior to proceeding with construction, installation or testing of metering equipment. QF shall pay such estimated costs in immediately available funds through wire transfer of funds or other means acceptable to Georgia Power within thirty (30) Business Days after its receipt of such estimate; provided, however, that QF shall make such payment within five (5) Business Days of receipt, if the Day of receipt is within five (5)

Business Days before the mutually anticipated synchronization of the Facility to the Georgia Power Electric System. Georgia Power shall true-up this estimate to Georgia Power's actual costs and expenses within a reasonable period of time after such actual costs and expenses are known. Such true-up as to the costs of design, construction and installation of the metering equipment shall take place no later than ninety (90) Business Days after the installation of the metering equipment has been completed. In the event that the actual costs and expenses to be paid by QF under Section 6.1 are more or less than Georgia Power's initial estimate, Georgia Power shall so notify QF and Georgia Power or QF, as the case may be, will reimburse or pay the other the difference within five (5) Business Days of such notification.

6.3 Inspection and Testing. Georgia Power shall 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) years. 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) years. QF shall be responsible for, and shall 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 shall 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.

6.4 Inaccuracies. If any seal securing the metering is found broken, if the metering fails to register, or if the measurement made by a metering device is found upon testing to vary by more than one percent (1.0%) from the measurement made by the standard meter used in the test, an adjustment shall be made correcting all measurements of energy made by the metering during (i) the actual period when measurements were made by the metering, if that period can be determined to the mutual satisfaction of the Parties, or (ii) if the actual period cannot be determined to the mutual satisfaction of

the Parties, one-half of the period from the date of the last test of the metering 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 shall 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 shall pay QF any additional amounts then due for capacity or deliveries of energy during the Adjustment Period or Georgia Power shall be entitled to a credit against any subsequent payments for energy or capacity, as the case may be.

6.5 Loss Factor Adjustment. If and to the extent Georgia Power's meters are not measuring deliveries of energy physically at the Point of Delivery, the metered amount of energy may be adjusted for losses to or from the Point of Delivery by a loss factor determined by Georgia Power, in accordance with Prudent Utility Practice. QF will be provided with a copy of any study or analysis prepared by Georgia Power in determining such loss factor.

SECTION 7: PURCHASE AND SALE OF CAPACITY AND ENERGY

7.1 Capacity. On the Commencement of Service Date, QF shall commit, sell and deliver the Committed Capacity to Georgia Power and Georgia Power agrees to purchase, accept and pay for the Committed Capacity made available to Georgia Power at the Point of Delivery in accordance with the terms and conditions of this Agreement.

7.2 Energy. On the Commencement of Service Date, QF shall sell and deliver the electric energy to Georgia Power and Georgia Power agrees to purchase, accept, and pay for such electric energy as is made available for sale to and received by Georgia Power at the Point of Delivery.

7.3 Testing and Test Energy. QF shall not commence initial deliveries of energy to the Point of Delivery without the prior written consent of Georgia Power, which consent shall not be unreasonably withheld. Georgia Power shall purchase energy produced by QF during Facility testing and start-up procedures at such times and under conditions acceptable to Georgia Power. Representatives of Georgia Power shall have the right to be present during any such testing. QF shall provide Georgia Power not less than thirty (30) Days written notice before any testing to establish the Facility's Commercial In-Service Status.

SECTION 8: CAPACITY COMMITMENT

8.1 Committed Capacity. The Committed Capacity shall be _____ kW, unless modified in accordance with Sections 8.2 and 19.3. The Committed Capacity shall be made available at the Point of Delivery from the Commencement of Service Date through the remaining Term of this Agreement.

8.2 Re-demonstration of Committed Capacity. Georgia Power shall have the right to require that QF, not more than once in any twelve (12) Month period, re-demonstrate the Committed Capacity of the Facility within sixty (60) Days of the demand; provided, however, that such demand shall be coordinated with QF so that the sixty (60) Day period for re-demonstration avoids, if practicable, scheduled maintenance periods and occurs prior to the upcoming Peak Period Hours.

SECTION 9: CAPACITY PAYMENTS

9.1 Calculation of Monthly Capacity Payments.

9.1.1 Georgia Power shall owe QF a Monthly Capacity Payment, in dollars (\$) per Month, for capacity purchased by Georgia Power from QF during such Month, if any. The Monthly Capacity Payment for a given Month, if any, shall equal:

$$\text{MCP} = (\text{ACR divided by } 12) \text{ multiplied by the } \text{Committed Capacity} \\ \text{multiplied by } \text{APA}$$

Where:

MCP = Monthly Capacity Payment

ACR = the Annual Capacity Rate for each calendar year of the Term as specified in Appendix A

Committed Capacity = has the meaning defined in Section 8.1

APA = the Annual Performance Adjustment which is equal to PPHCF divided by 0.9

PPHCF = the Peak Period Hours Capacity Factor which is equal to the quotient of:

(a) the total energy delivered during all Peak Period Hours of the most recent summer period; divided by

(b) the sum of the Committed Capacities in each of the Peak Period Hours in the most recent summer period.

provided, however, in no event shall the PPHCF be greater than 1.0.

The PPHCF shall be set at 0.9 beginning with the effective date of this Agreement and continuing until the completion of the first summer period.

9.1.2 Georgia Power shall adjust any capacity payments made to QF during the first Annual Period to reflect the actual PPHCF of the first summer period in order to adjust for any under payments or over payments. Thereafter, at the end of each subsequent summer period, Georgia power shall adjust any capacity payments made to QF during the previous Annual Period to reflect the actual PPHCF of the previous summer period in order to adjust for any under payments or overpayments. Following the determination that an overpayment has occurred, if the sum of the Monthly Capacity Payments for the next Annual Period is smaller than the overpayment amount, QF shall remit the overpayment amount in full, provided, however, that such overpayment may be paid by QF over the next Annual Period in twelve (12) Monthly installments. Following the determination that an under payment has occurred, Georgia Power shall remit the under payment amount in full to QF.

9.1.3 Georgia Power's obligation to pay the Monthly Capacity Payment shall commence on the Commencement of Service Date.

9.1.4 For purposes of calculating the Monthly Capacity Payment during Force Majeure Events affecting Georgia Power or a transmission outage caused by Georgia Power, QF shall be deemed to have delivered energy and capacity to Georgia Power at the level at which QF could have delivered energy and capacity had it not been for the inability of Georgia Power to accept such energy and capacity.

SECTION 10: ENERGY PAYMENTS

10.1 Calculation of Monthly Energy Payments.

10.1.1 Georgia Power shall owe QF a Monthly Energy Payment, in dollars (\$) per Month, for electric energy purchased by Georgia Power from QF during such Month, if any. The Monthly Energy Payment for a given Month, if any, shall equal the sum of the following products for each of the hours in such Month:

- (i) the amount of electric energy delivered by QF to Georgia Power during an hour of such Month; multiplied by
- (ii) the Georgia Power Company Territorial Hourly Avoided Energy Rate for such hour of such Month.

10.1.2 QF acknowledges and agrees that all price information provided by Georgia Power to QF under this Agreement, including without limitation, the Georgia Power Company Territorial Hourly Avoided Energy Rate, is confidential and proprietary information ("Confidential Information"). During the Term of this Agreement and for a period of two (2) years thereafter, QF shall not disclose such Confidential Information to any person except for those of its officers, directors, employees, affiliates, consultants, agents, and advisors who agree to maintain the confidentiality of such Confidential Information in accordance with the terms

hereof and who need to know the Confidential Information for purposes of performance under this Agreement.

10.1.3 Georgia Power's obligation to pay the Monthly Energy Payment shall commence on the Commencement of Service Date.

SECTION 11: ADMINISTRATION CHARGE

Seller shall owe Georgia Power a Monthly Administration 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 capacity and 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 6, or (iv) which are otherwise chargeable to or to be paid by QF under a provision hereof. The Monthly Administration Charge shall initially be one hundred dollars (\$100.00). Georgia Power may revise the amount of the Monthly Administration Charge on an annual basis and will submit any revisions to the GPSC for review.

SECTION 12: PAYMENT PROCEDURE

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

12.1.1 The Monthly Capacity Payment, if any, calculated for a given Month pursuant to Section 9.1 shall be added to the Monthly Energy Payment, if any, calculated for such Month pursuant to Section 10.1. The resulting amount, if any, shall be tendered, with a billing statement showing the basis for the calculation of the Monthly Capacity Payment and the Monthly Energy Payment by Georgia Power to QF as a single payment. Such payments shall be due and payable within twenty (20) Business Days following the date the meters are read.

12.1.2 Georgia Power shall issue a Monthly invoice of the Monthly Administration Charge to QF with cost tabulations showing the basis for the charge. All amounts owing to Georgia Power from QF shall be due and payable within twenty (20) Business Days after the date of Georgia Power's invoice.

12.1.3 At the option of QF, Georgia Power will provide a net payment or net bill, whichever is applicable, that consolidates amounts owing to QF with amounts owing to Georgia Power.

12.1.4 Any amount due and payable from either Party to the other pursuant to this Agreement that is not received by the due date shall accrue interest from the due date at the Interest Rate.

12.1.5 For a period of one year after its receipt of an invoice or a billing statement, QF shall have the right to audit and Georgia Power will make available to QF such books and records as are reasonably necessary for QF to verify the accuracy of amounts paid or billed to QF. Such books and records may exclude information which 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 13: REPRESENTATIONS, WARRANTIES AND COVENANTS

13.1 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:

13.1.1 QF is a _____, duly organized, validly existing and in good standing under the laws of the State of _____, that it is qualified to do business

in the State of Georgia, and that it 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.

13.1.2 The execution, delivery and performance by QF of this Agreement have been duly authorized by all necessary corporate action, and do not and will not require any consent or approval of QF's Board of Directors, or shareholders, other than that which have been obtained.

13.1.3 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.

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

13.1.5 There is no pending, or to the knowledge of QF, threatened action or proceeding affecting QF before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof.

13.1.6 QF covenants that the Facility is, and shall remain at all times during the Term, a Qualifying Facility.

13.1.7 QF covenants to Georgia Power that it will at all times during the Term of this Agreement pay all charges, taxes, assessments and fees which may be assessed upon or against the Facility or upon or against QF or Georgia Power by reason of the sale or purchase of electricity under this Agreement.

13.2 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:

13.2.1 Georgia Power is a corporation, duly organized, validly existing and in good standing under the laws of the state of Georgia, that it is qualified to do business in the state of Georgia, and that it 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.

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

13.2.3 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.

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

13.2.5 There is no pending, or to the knowledge of Georgia Power, threatened action or proceeding affecting Georgia Power before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof.

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

SECTION 14: EVENTS OF DEFAULT; REMEDIES

14.1 Default by QF. Any one or more of the following events shall constitute an Event of Default by QF and shall give Georgia Power the right, without limitation, to exercise the remedies specified in Section 14.3:

14.1.1 Except in the event of an outage scheduled in advance with Georgia Power or a Force Majeure Event, QF fails for a period of thirty (30) Days within one Annual Period to maintain the capability of the Facility to deliver energy to Georgia Power under the terms of this Agreement and fails to promptly commence and diligently pursues to cure such default within sixty (60) Days after receipt of written demand therefor from Georgia Power;

14.1.2 QF fails upon request by Georgia Power pursuant to Section 9.2 to re-demonstrate the Facility's Commercial In-Service Status consistent with Prudent Utility Practices;

14.1.3 QF fails to perform or comply with any other material terms and conditions of this Agreement and fails to conform to said term and condition within sixty (60) Days after a demand by Georgia Power to do so;

14.1.4 QF becomes insolvent, becomes subject to bankruptcy or receivership proceedings, or dissolves as a legal business entity; or

14.1.5 Any representation, warranty, or covenant furnished by QF to Georgia Power is false or misleading in any material respect when made and QF fails to conform to said representation, warranty, or covenant within sixty (60) Days after a demand by Georgia Power to do so.

14.2 Default by Georgia Power. Any one or more of the following events shall constitute an Event of Default by Georgia Power and shall give QF the right, without limitation, to exercise the remedies specified in Section 14.3:

14.2.1 Georgia Power fails to pay any amount payable by Georgia Power to QF hereunder which failure has continued for thirty (30) Days after notice thereof has been given by QF to Georgia Power;

14.2.2 Georgia Power fails to perform or comply with any other material terms and conditions of this Agreement and fails to conform to said term and condition within sixty (60) Days after a demand by QF to do so;

14.2.3 Georgia Power becomes insolvent, becomes subject to bankruptcy or receivership proceedings, or dissolves as a legal business entity; or

14.2.4 Any representation or warranty furnished by Georgia Power to QF is false or misleading in any material respect when made and Georgia Power fails to conform to said representation or warranty within sixty (60) Days after a demand by QF to do so.

14.3 Remedies for Events of Default. For any Event of Default specified under Section 14.1 or 14.2, the non-defaulting Party may in its discretion terminate this Agreement by giving written notice thereof to the defaulting Party and/or exercise all remedies available at law or in equity.

14.4 No Consequential Damages. Notwithstanding any other provision of this Agreement, neither Georgia Power or QF shall 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 without limitation negligence), strict liability, warranty or otherwise. The provisions of this Section 14.4 shall survive the termination of this Agreement.

SECTION 15: COMPLIANCE WITH LAWS

15.1 Compliance. QF represents, warrants and covenants that as of the Commencement of Service Date and for the Term, QF shall (i) be in compliance with all Legal Requirements with respect to the ownership, operation and maintenance of the Facility, including without limitation, 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 and government approvals and all applicable environmental certificates, licenses, permits and approvals, environmental impact analysis, and if applicable, the mitigation of environmental impacts, and (ii) pay all costs, expenses, charges and fees in connection therewith.

15.2 Change of Law. In the event that after the Execution Date there are changes to Legal Requirements, including, without limitation, changes to laws or regulations regulating or imposing a tax, fee or other charge on discharges, omissions or disposes from the Facility, which cause QF to incur

additional costs in carrying out its obligations under this Agreement, QF agrees to pay all costs associated with such changes to Legal Requirements and acknowledges that the capacity and energy payments made by Georgia Power to QF pursuant to this Agreement shall not be altered as a result of such changes to Legal Requirements.

SECTION 16: GPSC AND FERC APPROVALS

16.1 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.

16.2 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.

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

SECTION 17: INDEMNIFICATION

QF agrees to indemnify and save harmless Georgia Power and its employees, officers, and directors against any and all liability, loss, damage, costs or expense which Georgia Power, its employees, officers and directors may hereafter incur, suffer or be required to pay by reason of negligence on the part of QF in performing its obligations pursuant to this Agreement or QF's failure to abide by the provisions of this Agreement. Georgia Power agrees to indemnify and save harmless QF and its employees, officers, and directors against any and all liability, loss, damage, cost or expense which QF, its employees, officers, and directors may hereafter incur, suffer, or be required to pay by reason of negligence on the part of Georgia Power in performing its obligations pursuant to this Agreement or Georgia Power's failure to abide by the provisions of this Agreement. QF agrees to include Georgia Power as an additional insured in any liability insurance policy or policies QF obtains to protect QF's interests with respect to QF's indemnity and hold harmless assurance to Georgia Power contained in this Section 17.

SECTION 18: INSURANCE

18.1 Georgia Power may, in its sole discretion, require QF to deliver to Georgia Power, at any time during the Term at least thirty (30) days after the Effective Date, a certificate of insurance certifying QF's coverage under a liability insurance policy issued by a reputable insurance company authorized to do business in the State of Georgia naming QF as a named insured and Georgia Power as an additional named insured. Upon the Commencement of Service Date, the required insurance coverage shall contain a broad form contractual endorsement specifically covering liabilities 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.

18.2 The insurance policy providing such coverage, if required by Georgia Power, shall provide public liability insurance, including property damage, in an amount not less than \$1,000,000 for

each occurrence which can be exceeded by QF. The required insurance policy shall be endorsed with a provision requiring the insurance company to notify Georgia Power at least thirty (30) Days prior the effective date of any cancellation or material change in the policy.

18.3 QF shall pay all premiums and other charges due on said insurance policy and shall keep said policy in force during the Term of this Agreement.

SECTION 19: FORCE MAJEURE

19.1 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 is unforeseeable and beyond the reasonable control of such Party and is not caused by such Party's negligence or lack of due diligence, including, without limitation, flood, drought which causes the minimum flow of a water resource for a hydroelectric facility to fall below the level set by the Georgia Environmental Protection Division of the Georgia Department of Natural Resources, ice, earthquake, windstorm or eruption; fire; explosion; invasion, civil war, commotion or insurrection; sabotage or vandalism; military or usurped power; or act of God or of a public enemy; provided, however, in no event shall (i) the inability to meet a Legal Requirement or the change in a Legal Requirement; or (ii) a site specific strike, walkout, lockout or other labor dispute constitute a Force Majeure Event.

19.2 No Breach or Liability. The Parties shall be excused from performing their respective obligations under this Agreement and shall not be liable in damages or otherwise if and to the extent that they are unable to so perform or are prevented from performing by a Force Majeure Event, provided that the non-performing Party shall:

19.2.1 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;

19.2.2 use its reasonable best efforts to remedy its inability to perform as soon as practicable; provided, however, that this Section 19.2.2 shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest; provided further, that the settlement of strikes, lockouts or other labor disputes shall be entirely within the discretion of the Party having the difficulty; and

19.2.3 when it is able to resume performance of its obligations under this Agreement, give the other Party written notice to that effect.

19.3 Adjustments to Committed Capacity. If QF suffers a Force Majeure Event that reduces the generating capability of the Facility below the Committed Capacity, QF may, upon notice to Georgia Power, temporarily adjust the Committed Capacity as provided in Sections 19.3.1 and 19.3.2. Such adjustment shall be effective the first Day immediately following Georgia Power's receipt of the notice or such later date as may be specified by QF. Any such adjustment shall be the minimum amount necessitated by the Force Majeure Event.

19.3.1 If the Facility is rendered completely inoperative as a result of a Force Majeure Event, QF shall temporarily set the Committed Capacity equal to zero (0) MW until such time as the Facility can partially or fully operate at the Committed Capacity that existed prior to the Force Majeure Event. If the Committed Capacity is zero (0) MW, no capacity payments will be made to QF.

19.3.2 If, at any time during a Force Majeure Event or during its cure, the Facility can partially or fully operate, then QF shall temporarily set the Committed Capacity at the maximum capability that the Facility can reasonably be expected to operate.

19.3.3 Upon the conclusion of the cure of a Force Majeure Event, the Committed Capacity shall be equal to the Committed Capacity that existed immediately prior to the Force Majeure Event.

19.3.4 All Monthly Capacity Payments that cover changes in the Committed Capacity as a result of a Force Majeure Event shall be adjusted pro rata to reflect the changes in the Committed Capacity.

19.4 Suspension of Performance. The suspension of performance due to a Force Majeure Event shall be of no greater scope and of no longer duration than is required by such Force Majeure Event. No Force Majeure Event shall extend this Agreement beyond its stated Term.

19.5 Extended Force Majeure Events. If any Force Majeure Event delays a Party's performance for a time period greater than six (6) Months, the Party not delayed by such Force Majeure Event may terminate this Agreement, without further obligation, or extend such period at its sole discretion if the Party delayed by such Force Majeure Event is exercising due diligence in its efforts to cure the Force Majeure Event.

SECTION 20: MISCELLANEOUS

20.1 Assignment. Neither Party shall assign this Agreement or any portion thereof without the prior written consent of the other Party which consent shall not be unreasonably withheld (except that Georgia Power may assign this Agreement or any portion thereof to any Affiliate of Georgia Power without the consent of QF); but provided, further that: (i) any assignee shall expressly assume assignor's obligations hereunder and (ii) unless expressly approved by the other Party to this Agreement, which approval shall not be unreasonably withheld, no assignment, whether or not consented to, shall relieve the assignor of its obligations hereunder in the event its assignee fails to perform.

20.2 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 shall 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.

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

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

20.5 No Third Party Benefit. Nothing in this Agreement shall be construed to create any duty, obligation or liability of Georgia Power to any person or entity not a party to this Agreement.

20.6 No Affiliate Liability. Notwithstanding any other provision of this Agreement, no Affiliate of Georgia Power (including without limitation any Affiliate of Georgia Power acting as Georgia Power's agent where Georgia Power's agent is given certain authorities pursuant hereto) shall have any liability whatsoever for any party's performance, nonperformance or delay in performance under this Agreement.

20.7 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 shall 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 shall not constitute a waiver of its right to assert said right or remedy, at any time thereafter, or any other rights or remedies available to it at the time of or any time after such waiver.

20.8 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 all approvals of Governmental Authorities of competent jurisdiction necessary for the effectiveness thereof.

20.9 Notice. Any notice, request, consent or other communication permitted or required by this Agreement shall be in writing and shall be deemed given on the Day hand-delivered to the officer identified below, or the third (3rd) Day after the same is deposited in the United States Mail, first class postage prepaid, and if given to Georgia Power shall be addressed to:

Georgia Power Company
241 Ralph McGill Boulevard N.E.
Atlanta, Georgia 30308

Attention: _____

and if given to QF shall be addressed to:

Attention: _____

unless Georgia Power or QF shall have designated a different officer or address for itself by written notice to the other.

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

20.11 Cross-References. All cross-references contained in this Agreement to Section, are to the Sections of this Agreement, unless otherwise expressly noted.

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

20.13 Including. Wherever the term "including" is used in this Agreement, such term shall not be construed as limiting the generality of any statement, clause, phrase or term.

20.14 Governing Law. The validity, interpretation and performance of this Agreement, and each of its provisions, shall be governed by the laws of the State of Georgia, without giving effect to the principles of conflict of laws.

[Remainder of page intentionally left blank]

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.

QUALIFYING FACILITY:

"QF"

By: _____

Title: _____

Date: _____

ATTEST: _____

GEORGIA POWER COMPANY

"Georgia Power"

By: _____

Title: _____

Date: _____

ATTEST: _____

APPENDIX A

ANNUAL CAPACITY RATES

Prior to the Execution Date, QF shall elect Option A or Option B as the methodology for the determination of the Annual Capacity Rate.

Option A: Fixed Annual Payments

Under Option A, the Annual Capacity Rate for each Annual Period of the Term shall specified in the Agreement. The chart set forth below shall be completed prior to the execution of the Agreement.

Annual Period	ACR (\$/kW-yr)
1	
2	
3	
4	
5	
6	
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Option B: Market Based Payments

Under Option B, the Annual Capacity Rate for the first Annual Period shall be specified in the Agreement. This value shall be the Annual Capacity Rate for subsequent periods until such time as Georgia Power certifies a new supply side capacity resource with the GPSC. Upon certification of a new supply side capacity resource, the Annual Capacity Rate shall be reset to the economic carrying cost of a peaking resource calculated on the basis of such new supply side capacity resource.

The Annual Capacity Rate for the first Annual Period shall be \$_____ (\$/kW-yr).

APPENDIX B

PEAK PERIOD HOURS

1. The Peak Period Hours for hydropower Qualifying Facilities shall be the weekday hours of hour beginning 2:00 p.m. through hour ending 6:00 p.m. (Eastern Time) from June 15 through August 31 each calendar year, except for the Independence Day holiday.
2. The Peak Period Hours for all other Qualifying Facilities shall be the weekday hours of hour beginning 2:00 p.m. through hour ending 7:00 p.m. (Eastern Time) from June 1 through September 30 of each calendar year, except for the holidays of Independence Day and Labor Day.