

Exhibit C.2
NextEra Revised Power Purchase Agreement

POWER PURCHASE AGREEMENT
BETWEEN
[NEXTERA ENTITY]
AND
CENTRAL ELECTRIC POWER COOPERATIVE, INC.
Dated [●], [2020]

THIS PRELIMINARY DRAFT, AND ANY DISCUSSIONS, COMMUNICATIONS, CORRESPONDENCE, ACTIONS AND INACTIONS IN CONNECTION THEREWITH, ARE NOT INTENDED (AND SHOULD NOT BE DEEMED) TO CREATE, UNDER ANY CIRCUMSTANCE (WHETHER BY OPERATION OF LAW OR OTHERWISE) ANY LEGALLY BINDING OBLIGATIONS ON OR BE ENFORCEABLE AGAINST ANY PARTY. THE ONLY MANNER IN WHICH ANY BINDING OBLIGATION OR COMMITMENT OF ANY PARTY CAN BE CREATED OR ARISE IS PURSUANT TO THE EXECUTION OF A DEFINITIVE WRITTEN AGREEMENT BY AUTHORIZED REPRESENTATIVES OF ALL PARTIES.

THIS DRAFT REMAINS SUBJECT TO REVIEW AND REVISION BY CENTRAL ELECTRIC IN ALL RESPECTS.

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**POWER PURCHASE AGREEMENT
BETWEEN
[NEXTERA ENTITY]
AND
CENTRAL ELECTRIC POWER COOPERATIVE, INC.**

THIS POWER PURCHASE AGREEMENT, dated as of [●], [2020] (“**Agreement**”), is entered into by and between [●], a limited liability company organized and existing under the laws of [●], together with any permitted successor or assignee (“**Seller**”), and Central Electric Power Cooperative, Inc., an electric cooperative formed under SC Code 33-49-10 *et seq.*, together with any permitted successor or assignee (“**Buyer**”). Hereinafter, Seller and Buyer are sometimes also referred to individually as a “**Party**” or collectively as the “**Parties.**”

W I T N E S S E T H

WHEREAS, Seller owns and operates an electric power system consisting of generating, transmission, and distribution facilities in the state of South Carolina; and

WHEREAS, Seller is the successor in interest to the South Carolina Public Service Authority (a/k/a “**Santee Cooper**”) which supplied electric capacity and energy to Buyer in accordance with that Power Systems Coordination and Integration Agreement dated as of December 31, 1980 (the “**CIA**”), as amended; and

WHEREAS, Buyer is a generation electric cooperative that sells electric capacity and energy to wholesale customers and is authorized to purchase electric capacity and energy for resale to such wholesale customers; and

WHEREAS, Buyer has entered into agreements to supply electric capacity and energy to each of Aiken Electric Cooperative, Berkeley Electric Cooperative, Black River Electric Cooperative, Coastal Electric Cooperative, Edisto Electric Cooperative, Fairfield Electric Cooperative, Horry Electric Cooperative, Lynches River Electric Cooperative, Marlboro Electric Cooperative, Mid-Carolina Electric Cooperative, Newberry Electric Cooperative, Palmetto Electric Cooperative, Pee Dee Electric Cooperative, Santee Electric Cooperative, and Tri-County Electric Cooperative (hereinafter each referred to collectively as “**Load Serving Entities**” or “**LSEs**” or individually as a “**Load Serving Entity**” or a “**LSE**”), each of which (a) is an electric membership cooperative that provides retail electric service to its customers in the State of North Carolina and/or the State of South Carolina, and (b) is a member of Buyer; and

WHEREAS the Buyer’s Transmission System directly interconnects with the Seller’s Transmission System at various points of interconnection; and

WHEREAS, each LSE’s electric system is directly connected with the Buyer’s Transmission System; and

WHEREAS, Buyer has a need for electric capacity and energy which it will sell to each LSE to enable such LSE to meet the electric requirements of its LSE Native Load Customers, and Buyer has determined that it is willing to purchase electric capacity and energy from Seller

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for the duration of, and subject to the terms of, this Agreement to serve such electric requirements; and

WHEREAS, Seller is willing to sell and deliver to Buyer electric capacity and energy for the duration of, and subject to the terms of, this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties, and covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties, each intending to be legally bound, hereby agree as follows:

**ARTICLE 1 -
DEFINITIONS; INTERPRETATION; CONSTRUCTION**

Section 1.1 Definitions.

Defined terms in this Agreement are capitalized. The defined terms used in this Agreement have the following meanings. Additional terms used in the Appendices hereto are defined in such Appendices.

“**Abandoned Resource**” shall have the meaning specified in Section 8.1(b)(iii)(2)(F).

“**AC**” means alternating current.

“**Adjusted Statement**” shall have the meaning specified in Section 10.2(b).

“**Adjustment Factor**” shall have the meaning specified in Section 2.2(c).

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, “control” when used with respect to any Person 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, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**After-Tax Basis**” means, with respect to any payment to be 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 shall, 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 the net present value of any reduction in such Taxes resulting from Tax benefits realized by the recipient as a result of the payment or the event giving rise to the payment), be equal to the amount required to be received. Such calculations shall be made on the basis of the highest generally applicable Tax rates applicable to the Person for whom the calculation is being made for all relevant periods, and shall take into account the deductibility of Taxes for federal income tax purposes.

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“**Agreement**” means this Agreement, together with each Appendix, each as amended from time to time.

“**Ancillary Services**” means any and all ancillary services required to be provided by a Transmission Provider in connection with any Transmission Service arranged (a) by Seller for the delivery of electric energy provided under this Agreement to the Seller Delivery Points, or (b) by Buyer for the delivery of electric energy provided under this Agreement from the Seller Delivery Points.

“**Annual Required Amounts**” shall have the meaning specified in Section 8.3(b)(i)(A).

“**Annual Required Capabilities Amount**” shall have the meaning specified in Section 8.3(b)(i)(A).

“**Annual Required Capacity Amount**” shall have the meaning specified in Section 8.3(b)(i).

“**Asset Purchase Agreement**” means the Asset Purchase Agreement, dated of even date herewith, by and between Seller and the South Carolina Public Service Authority, as amended from time to time.

“**Balancing Authority Area**” means an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to match the power output of the generators within the electric power system and electric energy imported into the electric power system, with the load located within the electric power system.

“**Bankrupt**” means that the Defaulting Party or any guarantor of such Party:

- (a) is dissolved (other than pursuant to a consolidation, amalgamation, or merger);
- (b) becomes insolvent or is generally unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (c) makes a general assignment, arrangement, or composition with or for the benefit of its creditors;
- (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights, or a petition is presented for its winding-up or liquidation;
- (e) has a resolution passed for its winding-up, official management, or liquidation (other than pursuant to a consolidation, amalgamation or merger);
- (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, or other similar official for it or substantially all of its assets;

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(g) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration, or other legal process levied, enforced, or sued on or against all or substantially all of its assets;

(h) causes or is subject to any event with respect to which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) to (h) inclusive; or

(i) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Bankruptcy Code” means Title 11 of the United States Code or any successor thereto.

“Behind the Meter Energy Resource” means any electric generating resource or electric storage resource, including those resources that qualify as Renewable Energy Resources, in each case, located behind the retail meter, connected directly to a LSE’s retail customer load and utilized solely to serve LSE Native Load Customers.

“Billing Dispute Notice” shall have the meaning specified in Section 10.3(a).

“Billing Period” means the period beginning on the Commencement Date and ending on the last Day of the Month in which the Commencement Date occurred and each succeeding Month thereafter, which shall be the standard period for all payments and metering measurements under this Agreement unless otherwise agreed to by the Parties.

“Business Day” means any Day ending at 5:00 p.m. Eastern Time, other than Saturday, Sunday, NERC holidays, or any Day on which the Federal Reserve member banks are not open for business.

“Buyer” shall have the meaning specified in the first paragraph hereof.

“Buyer Delivery Points” means those points designated on Appendix B, as amended from time-to-time in accordance with Section 7.1(b), which points are interconnection points between (a) the Seller’s Transmission System or, if applicable, Buyer’s Transmission System and (b) a LSE’s distribution system.¹

“Buyer’s Annual Peak Demand” means, as of any date, a number of MWs equal to the highest Weather-Normalized number of MWs (rounded to the nearest one-tenth (0.1) of one (1) MW) required to serve the following amount in any period of sixty (60) consecutive minutes during the Year immediately preceding the Year in which such date occurs: LSEs Metered Load *minus* a quantity equal to the capacity (in MW) of the then-applicable SEPA Entitlement and the energy supplied by Existing Generation or a Non-Shared Resources that are External Resources *plus*, subject to the requirements of Section 5.2(c) and Section 5.2(h), energy supplied by any PURPA Resources or Permitted Additional Resources that are Internal Resources, *provided*, with respect to the first Year following the Commencement Date, Buyer’s Annual Peak Demand shall

¹ The Parties to cooperate to confirm the location of meters at the points.

be determined based on the twelve (12) Months of the Year preceding the Year in which the Commencement Date occurs.

“**Buyer’s Requested Resource Information**” shall have the meaning specified in Section 8.1(c)(ii).

“**BTM Programs**” shall have the meaning specified in Section 5.2(f).

“**Central-LSE Agreement**” shall have the meaning specified in Section 13.1(d)(i).

“**CEU Financing Order**” shall have the meaning specified in Section 13.2(c)(vii)(1).

“**CEU Financing Proceedings**” shall have the meaning specified in Section 13.2(c)(vii)(1).

“**CEU Securitization**” means the issuance, sale, and delivery of CEU Transition Bonds pursuant to the CEU Financing Order and associated transaction documents.

“**CEU Transition Bonds**” shall have the meaning set forth in Section 58-31-710 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation).

“**Change in Control**” means the occurrence of any one of the following events or actions with respect to a Party (a) a transfer of the direct ownership or equity interests of such Party such that there is a change in ownership of the majority, plurality, or controlling interest of the Party; (b) a sale, conveyance, aggregation, or transfer of voting rights, individually or in the aggregate, such that the Party is no longer in control of its interests under this Agreement; or (c) a change in the effective control of a Party, however accomplished; *provided*, for the avoidance of doubt, any change in control of NextEra Energy, Inc., however accomplished, shall not be a Change in Control.

“**CIA**” shall have the meaning specified in the Recitals.

“**CIA Termination Agreement**” shall have the meaning specified in Section 3.1(e).

“**Claiming Party**” shall have the meaning specified in Section 13.5(a).

“**Claims**” means all third-party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of this Agreement, and the resulting losses, damages, expenses, reasonable attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

“**Closing**” has the meaning specified in the Asset Purchase Agreement.

“**Collateral**” shall have the meaning specified in Section 12.3(c).

“**Collateral Amount**” shall have the meaning specified in Section 12.3.

“**Collateral Assignment**” shall have the meaning specified in Section 13.3(b)(ii).

“**Combined System**” means the combined generation and transmission system owned and/or operated by either Party as of Effective Date, including subsequent modifications and contiguous additions thereto.

“**Commencement Date**” means the date on which the Closing shall have occurred under the Asset Purchase Agreement or such later date as may be mutually agreed upon by the Parties.

“**Commercially Reasonable Efforts**” means, with respect to a given action or desired result, the efforts that a reasonable Person in the electric utility industry under similar circumstances would use to take such action or cause such result to occur within the time contemplated by this Agreement but which do not require the performing Person to expend any funds or assume or incur any liabilities other than expenditures or liabilities that are customary and reasonable in nature and amount, and that are otherwise consistent with usual commercial practice, in such circumstances or in the context of transactions of the type contemplated hereby.

“**Confidential Information**” means any documents, analyses, compilations, studies, or other materials prepared by a Party or its Representatives that contain or reflect either (a) any costs of the Seller Generation System, including system average costs, or (b) written or oral data or information that is privileged, confidential, or proprietary and is marked as “Confidential.” “Confidential Information” shall also mean all subsequently prepared documents, analyses, compilations, studies, or other materials by a Party or its Representative that are derived from previously marked “Confidential” data or information. Notwithstanding the foregoing, information shall not be deemed Confidential Information if it:

(i) is already in a Party’s possession prior to its receipt from the other Party and not subject to a requirement of confidentiality,

(ii) is a matter of public knowledge at the time of its disclosure or is thereafter published in or otherwise ascertainable from any source available to the public without breach of this Agreement,

(iii) constitutes information which is obtained from a third Person (who or which is not an Affiliate of one of the Parties) other than by or as a result of unauthorized disclosure, or

(iv) prior to the time of disclosure had been independently developed by the receiving Party or its Affiliates not utilizing improper means.

“**Confirmation Notice**” shall have the meaning specified in Section 8.2(b).

“**Costs**” shall have the meaning specified in Section 13.6(b)(iii)(B).

“**Curtailement(s)**” shall have the meaning specified in Section 4.2(b).

“**Day**” means a day, commencing at 00:00:00 Eastern Time of such calendar day and ending at 23:59:59 Eastern Prevailing Time of the same calendar day.

“**Defaulting Party**” shall have the meaning specified in Section 13.6(a).

“**Delivery Points**” means the Buyer Delivery Points and the Seller Delivery Points.

“**Designated Delivery Points**” shall have the meaning specified in Section 8.3(d).

“**Designated Delivery Point Resource**” shall have the meaning specified in Section 8.3(d).

“**Demarcation Points**” shall have the meaning specified in Section 4.6(a).

“**Disputed Amount**” shall have the meaning specified in Section 10.3(a).

“**Distributed Energy Resources**” means electric generating resources or energy storage resources, including those resources that qualify as Renewable Energy Resources, in each case, (a) connected directly to Buyer’s Transmission System or Seller’s Transmission System, (b) connected directly to an electric distribution system of a LSE on Buyer’s side of the Buyer Delivery Point, and (c) utilized solely to serve LSEs Native Load Customers.

“**DSM Program**” means a program or activity undertaken by an electric utility or its customers which is designed to reduce or to give the electric utility the ability to reduce the amount of electricity used during the system peak and which program or activity may include deployment and use of energy storage resources, photo voltaic resources, or rates designed to interrupt or curtail load. A program designed to reduce the amount of electricity used by a customer but not designed to reduce the amount of electricity used during the system peak shall not constitute a DSM Program.

“**Dynamic Signals**” shall have the meaning specified in Section 4.6(a).

“**Early Termination Date**” shall have the meaning specified in Section 13.6(b)(ii).

“**Eastern Time**” means the time in effect in Moncks Corner, South Carolina, whether Eastern Standard Time or Eastern Daylight Saving Time.

“**Effective Date**” shall have the meaning specified in Section 2.1(a).

“**Enabling Legislation**” means a bill enacted by the General Assembly of the State of South Carolina directing, inter alia, the sale of Santee Cooper’s electric utility assets to Seller.

“**End Date**” shall have the meaning specified in Section 3.5.

“**Energy Efficiency Program and DSM Program Costs**” means direct costs incurred by Seller to develop, promote, implement, or perform under Energy Efficiency Programs or DSM Programs, which such programs would be available to Buyer or a LSE (which excludes any loss of revenue associated with reduction of demand or energy of Buyer or a LSE).

“**Energy Efficiency Program**” means a program or activity undertaken by an electric system or its customers to reduce the amount of electricity used, but does not include a program designed to disproportionately reduce peak hour load.

“**Energy Imbalance Service**” means the service provided under Schedule 4 of an OATT.

“**Escrow Account**” has the meaning specified in Section 12.3(b).

“**Event of Default**” shall have the meaning specified in Section 13.6(a).

“**Excluded Resource**” shall have the meaning specified in Section 5.2(h)(ii).

“**Existing Generation**” shall have the meaning specified in Section 5.2(b).

“**Extension Term**” shall have the meaning specified in Section 2.2(b).

“**External Resources**” means those Existing Generation, PURPA Resources and Permitted Additional Resources that are not Internal Resources and that are used by Buyer or the LSEs to serve LSEs Native Load in a manner consistent with Section 5.2.

“**Federal Power Act**” means the Federal Power Act, 16 U.S.C. §§791a-828c, as amended from time to time.

“**FERC**” means the Federal Energy Regulatory Commission or any successor agency that administers the Federal Power Act.

“**FERC Interest Regulation**” means 18 C.F.R. Section 35.19a, as amended from time to time.

“**Firm Purchases**” means electrical capacity and energy purchases from a third-party, generally not from specific or designated generating units, which are intended to have associated with them sufficient reserve capacity so as to be continuously available except during the most severe emergencies. For the purposes of this Agreement, Firm Purchases from others must carry a level of reserves or reliability consistent with Good Utility Practice and applicable regulatory requirements.

“**Fitch**” means Fitch Ratings, Ltd.

“**Force Majeure**” shall have the meaning specified in Section 13.5(a).

“**Formula Rate**” shall have the meaning specified in Section 6.2(a).

“**Formulaic Rates**” shall have the meaning specified in Section 6.9(a).

“**Formula Rate Challenge Issues**” shall have the meaning specified in Section 6.10(a)(i).

“**Fuel Adjustment Charge**” shall have the meaning specified in Section 6.4(a).

“**Fuel Rate**” shall have the meaning specified in Section 6.4(a).

“**Gains**” shall have the meaning specified in Section 13.6(b)(iii)(C).

“**GHG**” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and such other similar emissions as may be regulated under Law.

“**GHG Costs**” shall have the meaning specified in Section 6.14.

“**Good Utility Practice**” means any of the practices, methods and acts, which, in the exercise of reasonable judgment in light of the circumstances and the facts known at the time, would have been expected to accomplish the desired result consistent with prudent business practices, reliability, economy, safety, expediency, environmental protection, and Law (including permits, codes and standards). Good Utility Practice is not intended to be limited to an optimum practice, method or act, but rather as a spectrum of potential reasonable practices, methods, or acts.

“**Governmental Authority**” means any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, arbitrating body, government-owned corporation or other governmental authority or department thereof, excluding the Buyer, the LSEs and its or their governing board of directors.

“**Governmental Charges**” means all taxes, fees, assessments and other costs or charges imposed by any Governmental Authority.

“**Guaranty**” has the meaning specified in Section 12.3(c).

“**Hour**” or “**Hourly**” means one of the twenty-four (24) clock hours in a Day.

“**Hourly Fuel Charge**” shall have the meaning specified in Section 6.4(a).

“**Hourly Variable O&M Charge**” shall have the meaning specified in Section 6.4(b).

“**Impasse Notice**” shall have the meaning specified in Section 11.2.

“**Internal Resources**” means electric generating resources or energy storage resources located on the LSEs side of the Buyer Delivery Points and utilized solely to serve LSEs Native Load.

“**Initial Generation Resource Plan**” means Seller’s generation resource plan as enacted by the Enabling Legislation (but not including any Major Resource Modification to any Resource that has not been placed in-service prior to January 1, 2035).

“**Initial Term**” shall have the meaning specified in Section 2.2(a).

“Installed Capacity Reserve Margin” means, for a given Month, season or Year, the amount of reserve generating capacity maintained or otherwise available to meet loads in the event of a contingency or to meet higher than expected loads. The Installed Capacity Reserve Margin for any given Month, season or Year shall mean the amount (in MW) by which (i) the total of the Net Dependable Capacities of all Resources installed to serve the Combined System less the total of the Net Dependable Capacities of all such Resources, if any, that are Firm Purchases, exceeds (ii) the highest Firm Monthly Territorial Peak Demand during the applicable period less the total of the Net Dependable Capacities of all such Resources, if any, that are Firm Purchases. An Installed Capacity Reserve Margin may also be expressed as a percentage derived by dividing the quantity (i) by the quantity (ii) from the preceding sentence.²

“Interest Rate” means the electric interest rate permitted by the FERC Interest Regulation.

“Investment Grade” means with respect to Buyer, Seller or any Person (including a Person issuing a Guaranty), a long-term credit rating (long-term senior unsecured debt) that satisfies one of the following rating requirements (a) “Baa3” or higher by Moody’s, (b) “BBB-” or higher by S&P, or (c) “BBB-” or higher by Fitch; if rated by more than one rating agency, then the highest rating shall apply.

“ISO” means an independent system operator as that term is defined by FERC.

“Issuer” means a financing institution providing Letter(s) of Credit or participating in an Escrow Account that (a) has and maintains a minimum long-term credit rating of “A-” or better from S&P, and “A3” or better from Moody’s and total assets of at least Ten Billion Dollars (\$10,000,000,000), or (b) is the National Rural Utilities Cooperative Finance Corporation or CoBank, ACB (or both).

“ITC” means an independent transmission company.

“Joint Dispatch Pool” shall have the meaning specified in Section 8.3(f).

“Joint Resolution” means the Joint Resolution (A95, R113, H4287) passed by the General Assembly of the State of South Carolina on May 21, 2019 and enacted by the Governor of the State of South Carolina on May 22, 2019.

“kW” mean kilowatt, a unit of electric demand.

“kWh” means kilowatt-hour, a unit of electric energy.

“Law” means any law, rule, regulation, order, writ, judgment, decree, or other legal or regulatory determination by a court, regulatory agency, or other Governmental Authority of competent jurisdiction that is final and effective.

² The Parties to cooperate to confirm/conform this definition to the Agreement, including definition of Firm Monthly Territorial Peak Demand.

“**Legal Proceeding**” means any suit, hearing, or proceeding by or before any court or any Governmental Authority.

“**Letter(s) of Credit**” has the meaning specified in Section 12.3(a).

“**Load Ratio Share**” means, for any Contract Year (a) with respect to Buyer (i) the sum of Buyer’s Firm Monthly Coincident Peak Demands for the twelve (12) months in such Contract Year, less the sum of the monthly amounts of the SEPA Entitlement for the twelve (12) months of such Contract Year, *divided* by (ii) the sum of the Firm Monthly Territorial Peak Demands for the twelve (12) months of such Contract Year, *less* the sum of the monthly amounts of the SEPA Entitlement, if and to the extent the demands served by such capacities are included in the aforementioned Firm Monthly Territorial Peak Demands, and (b) with respect to Seller, one (1) *minus* Buyer’s Load Ratio Share.³

“**Load Serving Entity**” or “**LSE**” or “**Load Serving Entities**” or “**LSEs**” shall have the meaning specified in the fourth recital of this Agreement.

“**Losses**” shall have the meaning specified in Section of 13.6(b)(iii)(A).

“**LSE DSM Program**” means a DSM Program made available to or effective for any of the electric customers of any LSE.

“**LSE Energy Efficiency Program**” means an Energy Efficiency Program made available to or effective for any of the electric customers of any LSE.

“**LSE Native Load**” means, for a given LSE, the aggregate electric capacity and energy demands imposed by the LSE Native Load Customers of such LSE, including

- (a) territories served by such LSE as of the Effective Date,
- (b) subject to subpart (c) below, territories newly served by such LSE after the Effective Date, that are contiguous with such territories served as of the Effective Date, or subsequent such territories, and
- (c) at Buyer’s option (which shall be irrevocable once elected), the requirements of loads located in a service territory newly acquired by a LSE after the Effective Date, if, and to the extent that, (i) the reasonably expected combined peak demand of such loads during the twelve (12) Month period immediately following such acquisition is less than 0.5% of the reasonably projected Buyer Annual Peak Demand (excluding the requirements of the subject new loads), and (ii) the aggregate of all such new loads in any twenty-four (24) Month period does not exceed forty (40) MW.

Notwithstanding the foregoing, LSE Native Load expressly excludes (i) loads served from the McClellanville, Ravenel, Commonwealth, and Longpoint delivery points, (ii) loads of municipally owned electric systems or other load-serving entities where such requirements are

³ The Parties to cooperate to confirm/conform this definition to the Agreement, including definition of Buyer’s Firm Monthly Coincident Peak Demands and Firm Territorial Peak Demands.

purchased from any LSE(s) for resale, and (iii) loads from any service territory newly acquired by a LSE after the Effective Date that continue to be served by the supplier serving such loads prior to such acquisition.

“**LSE Native Load Customers**” means all retail customers of a LSE, including such LSE’s wholesale power sales customers served under contracts with a firmness of supply equal to such retail customers.

“**LSE Time of Use Rates**” means Time of Use Rates made available to or effective for any of the electric customers of any LSE.

“**LSEs Metered Load**” shall be the aggregate load measured at Seller’s meters located at all of the Buyer Delivery Points.

“**LSEs Native Load**” means the aggregate LSE Native Load.

“**LSE System Load Forecasts**” shall have the meaning specified in Section 13.13.

“**MAC**” shall have the meaning specified in Section 12.1.

“**MAC Notice**” shall have the meaning specified in Section 12.2.

“**MAC Party**” shall have the meaning specified in Section 12.3.

“**Major Resource**” means any of the following generation or storage resources, excluding purchases from PURPA Resources by Seller only to the extent required by PURPA:

- (a) any owned or leased generating facility with (A) a Nameplate Capacity of greater than or equal to fifty (50) MW or (B) a purchase price or aggregate lease payments of greater than or equal to \$50,000,000;
- (b) any agreement, or series of related agreements, to purchase capacity or energy (including tolling arrangements) that (i) is for a term of greater than or equal to five (5) years or (ii) provides for capacity or energy of 50 MW or more in any hour (including energy from an intermittent resource based on fifty (50) MW or more of nominal or Nameplate Capacity); or
- (c) any Major Resource Modification with respect to a Resource other than a Non-Shared Resource.

“**Major Resource Modification**” means any addition, improvement, repair, upgrade, repowering, modification or amendment to any existing generation or storage resource (including power purchase arrangements) that would (a) have an expected cost of more than \$50,000,000 or (b) have the effect of (i) extending the term or useful life of the resource by five (5) years or more, (ii) increasing the capacity by more than the lesser of fifty (50) MW and twenty percent (20%) of the then-current capacity or (iii) increasing the expected energy output by more than the lesser of 250,000 MWh/year or twenty percent (20%) of the then-current average annual output.

“**Month**” or “**Monthly**” shall mean a calendar month; *provided*, that the first Month shall commence at 00:00 hours Eastern Time on the Commencement Date and end at 23:59 Eastern Time on the last Day of the calendar month in which the Commencement Date occurs.

“**Monthly Billing Demand**” shall have the meaning specified in Section 6.2(b).

“**Monthly Demand Charge**” means the charge set forth in Section 6.2.

“**Monthly Demand Rate**” shall have the meaning specified in Section 6.2(a).

“**Monthly Fuel Charge**” shall have the meaning specified in Section 6.4(a).

“**Monthly Variable O&M Charge**” shall have the meaning specified in Section 6.4(b).

“**Moody’s**” means Moody’s Investors Services, Inc.

“**MW(s)**” means megawatt AC, a unit of electric demand.

“**MWh**” means megawatt-hour, a unit of electric energy.

“**Nameplate Capacity**” means the maximum continuous megawatt (MW) alternating current (AC) rating of a resource at the electric distribution or transmission system net of typical auxiliary power required to operate the resource and electric losses up to the point of interconnection. For power generation and/or energy storage facilities installed behind an electric meter at a retail customer location, Nameplate Capacity shall include the aggregate MW AC capability of all equipment installed behind each individual customer meter. For electric grid-tied (distribution or transmission level) power generation and/or energy storage facilities utilizing the same energy source that are owned by the same Person(s) (or its Affiliates), resources located at separate sites shall be considered as a single resource for the purpose of determining Nameplate Capacity if the distance to the nearest electric generating equipment of any two resources is less-than or equal-to one (1) mile.

“**Negotiation Period**” shall have the meaning specified in Section 11.2.

“**NERC**” means the North American Electric Reliability Corporation.

“**Network Integration Transmission Service Agreement**” shall have the meaning specified in Section 3.2(d).

“**New Resource Date**” means the proposed or estimated in-service date of a Proposed Resource (as reflected in Seller’s Requested Resource Information) that was subject an Opt-Out Election.

“**Non-Claiming Party**” shall have the meaning specified in Section 13.5(b)(i).

“**Non-Defaulting Party**” shall have the meaning specified in Section 13.6(a)(i).

“**Non-Shared Resource**” means either (a) a Resource acquired by Buyer, in connection with and required as a result of an Opt-Out Election; or (b) a Resource acquired by Seller, in connection with and required as a result of an Opt-Out Election.

“**NRC**” means the Nuclear Regulatory Commission.

“**OATT**” means the Open Access Transmission Tariff of (a) the Seller, (b) a Transmission Provider (other than Seller), or (c) an RTO, ITC or ISO that is applicable to the Seller’s or a Transmission Provider’s (other than Seller) transmission system, as such Open Access Transmission Tariff is on file and in effect with FERC and as such Open Access Transmission Tariff may be amended from time to time.

“**Operating Committee**” shall have the meaning specified in Section 8.1.

“**Operating Procedures**” shall mean the procedures and processes developed by the Operating Committee, if any, as specified in Section 8.1(b)(i).

“**Operations and Maintenance Agreement**” shall have the meaning specified in Section 3.1(f).

“**Opt-Out Election**” shall have the meaning specified in Section 8.2(a).

“**Original Notice**” shall have the meaning specified in Section 11.2.

“**Other Wholesale Customers**” shall mean wholesale customers of Santee Cooper other than Buyer and, for the purposes of this Agreement, shall include the City of Georgetown, City of Bamberg, Town of Waynesville, City of Seneca, Piedmont Municipal Power Agency, and Alabama Municipal Electric Authority.

“**Own Account Sale**” shall mean any sale by a Party to a third party of the capacity or energy of its Non-Shared Resources in excess of the capacity necessary to satisfy such Party’s Annual Required Capacity Amount or Annual Required Capabilities Amount.

“**PAR Aggregate Cap**” means, during the Rate Freeze, one and one-half percent (1.5%) of Buyer’s Annual Peak Demand, with such percentage escalating annually at one-half of one percent (0.5%) commencing at the start of the first (1st) Year following the conclusion of the Rate Freeze through and including the seventh (7th) Year thereafter, such that commencing at the start of the seventh (7th) Year following the conclusion of the Rate Freeze and thereafter for the duration of the Term, the PAR Aggregate Cap shall be five percent (5.0%) of Buyer’s Annual Peak Demand.

“**Party**” and “**Parties**” shall have the meanings specified in the first paragraph hereof.

“**Permitted Additional Resources**” shall have the meaning specified in Section 5.2.

“**Permitted Transfer**” means any of the following (a) transactions among Affiliates of Seller, including any corporate reorganization, merger, combination or similar transaction or transfer of assets or ownership interests involving Seller or its Affiliates, *provided*, that with

respect to such transfer among Affiliates, NextEra Energy, Inc. retains the authority, directly or indirectly, to control the Seller and the transferee has an Investment Grade credit rating; or (b) a Change in Control of NextEra Energy, Inc.

“**Person**” means an individual, corporation, limited liability company, voluntary association, joint stock company, business trust, partnership, agency, Governmental Authority or other entity.

“**Planning Reserve Requirement**” means the minimum Installed Capacity Reserve Margin that the system is to be planned (at the time such planning is performed) to achieve in the future.

“**Prime Rate**” means, for any date, the per annum rate of interest announced from time to time by Citibank, N.A. (or a suitable replacement agreed upon by the Parties) as its “prime” rate for commercial loans, effective on the date payment is due as established from time to time by such bank.

“**Program Resource**” shall have the meaning specified in Section 5.2(f).

“**Proposed Resource**” shall have the meaning specified in Section 8.2(a).

“**Providing Party**” shall have the meaning specified in Section 12.6.

“**PSCSC**” means the Public Service Commission of South Carolina, or any successor agency with jurisdiction to regulate retail electric service within the State of South Carolina.

“**PURPA**” means the Public Utility Regulatory Policies Act of 1978, as amended, including related amendments included in the Energy Policy Act of 2005.

“**PURPA Resource**” means a resource from which Buyer or a LSE is required by Law to purchase capacity and energy under the provisions of PURPA and is certified as a “qualifying facility” under PURPA.

“**Rate Freeze**” shall have the meaning specified in Section 6.2(a).

“**Renewable Energy**” means (a) electric energy produced by a generating facility which primary energy source is solar, wind, hydro, geothermal, ocean current, ocean wave, biomass, or landfill gas resources, or (b) that otherwise satisfies a RPS Requirement.

“**Renewable Energy Certificate**” means a certificate, credit, allowance, green tag or other transferable indicia, howsoever entitled, indicating generation of a particular quantity of Renewable Energy.

“**Renewable Energy Resource(s)**” means resources, including those Behind the Meter Resources and Distributed Energy Resources that qualify as Renewable Energy Resources, that are (a) electric generating facilities which generate Renewable Energy, including energy storage devices configured to receive electric charge solely from an onsite renewable energy resource, or

(b) agreements under which Renewable Energy is purchased or acquired, each of (a) and (b) utilized solely to serve LSEs Native Load.

“**Replacement Price**” shall have the meaning specified in Section 4.5(a).

“**Representatives**” means, with respect to a Party, such Party’s officers, directors, employees, advisors, agents, lenders, counsel, accountants, or representatives and such Party’s Affiliates and their respective advisors, agents, lenders, counsel, accountants and representatives.

“**Requesting Party**” shall have the meaning specified in Section 12.6.

“**Requirements Portion**” shall have the meaning specified in Section 4.1(a).

“**Resource**” means a generating unit, an ownership share or interest in a generating unit, or a purchased entitlement to electric power and energy from generating unit or units or other source(s) of electric power and energy. By mutual agreement of the Parties, two or more generating units that are located at the same generating station and that have similar operating characteristics and costs may be deemed to constitute a single Resource. As used herein, all or a portion of a Resource shall be referred to as owned by a Party if that Party has an entitlement, by right of ownership or contract, to all or a particular portion of that resource’s capability and output.

“**Resource Commitment Notice**” shall have the meaning specified in Section 8.2(a).

“**RPS Compliance Obligation**” shall have the meaning specified in Section 5.2(g).

“**RPS Compliance Resource**” shall have the meaning specified in Section 5.2(g)(iii).

“**RPS Requirement**” means a mandatory renewable portfolio standard or requirement established by a Governmental Authority with jurisdiction over electric generation or sellers of electricity in the state of South Carolina that specifies an amount or percentage of Renewable Energy that a seller of electric energy is required to generate or procure. Any material modification to an RPS Requirement shall be considered a new RPS Requirement.

“**RTO**” means a regional transmission organization as that term is defined by FERC.

“**RUS**” means the Rural Utilities Service of the United States Department of Agriculture or any agency succeeding to the functions of RUS.

“**Santee Cooper**” shall have the meaning specified in the Recitals.

“**S&P**” means Standard and Poor’s Rating Group, a division of McGraw Hill, Inc., or its successor.

“**Secured Party**” shall have the meaning specified in Section 12.3.

“**Seller**” shall have the meaning specified in the first paragraph hereof.

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“**Seller BAA**” means the Balancing Authority Area within which the Seller’s Transmission System is located.

“**Seller Delivery Points**” means such points of interconnection between the Seller’s Transmission System and the Seller Generation System, as designated on Appendix B, as amended from time-to-time in accordance with Section 7.1(b).

“**Seller Demand**” means Seller Native Load demand excluding (a) non-requirements wholesale sales, as listed in Seller’s FERC Form 1, (b) wholesale sales with a duration of one (1) year or less, and (c) Seller’s non-firm retail load, to the extent that the demand and sales described in (a), (b), and (c) are served by the Seller Generation System, the cost of which is included in the Monthly Demand Charge. Such demands and sales shall be compensated for all transmission losses using the same loss factors that are used in the calculation of energy delivered and demand hereunder as described in Section 6.10.

“**Seller Generation System**” means Seller’s operational owned or leased electric generating facilities and purchased power resources, as such system may be amended from time to time by any means including by merger or acquisition, excluding that portion of an electric generating facility that is jointly-owned by Seller and a Person (not the Seller), unless Seller has entered into a purchase power through a negotiated, arm’s length arrangement with such Person for that portion of the electric generating facility that Seller does not own.

“**Seller Monthly Energy Charge**” shall have the meaning specified in Section 6.4.

“**Seller Native Load**” means the electric capacity and energy demands imposed on Seller by its retail customers located within Seller’s service area, as such service area may be amended from time to time in accordance with Law or pursuant to the requisite approvals of Governmental Authorities that have jurisdiction to regulate retail electric service within such service area, including by merger or acquisition, plus the demands of Seller’s wholesale power sales customers served under contracts with a firmness of supply equal to such retail customers.

“**Seller’s Avoided Cost Rate**” means Seller’s most recent avoided cost rates in South Carolina for purchases of electricity from qualifying facilities pursuant to Section 210 of the Public Utility Regulatory Policies Act, as determined by Seller in accordance with applicable Law.

“**Seller’s Requested Resource Information**” shall have the meaning specified in Section 8.1(c)(i).

“**SEPA Contract**” means any of the contracts executed by the United States of America acting by and through the Southeastern Power Administration of the U. S. Department of Energy and Buyer or an LSE as of the Effective Date, as such contracts may be revised or renewed from time to time.

“**SEPA Entitlement**” means the total entitlement of Buyer, obtained directly by Buyer or indirectly through the LSEs, to electric capacity and energy under various SEPA Contracts, as such entitlement may be revised from time to time which, as of the Effective Date, equals 144.2 MW.

“**Shared Resource**” means a Resource of Seller that is not a Non-Shared Resource and (a) was included in the Initial Generation Resource Plan, (b) is in-service and the costs and charges of which are subject to the Monthly Demand Charge or the Monthly Energy Charge in the Formula Rate as of January 1, 2035, (c) was subject to the Operating Committee’s generation resource planning procedures (as set forth in Section 8.1(b)(iii)) and is under construction as of January 1, 2035, or (d) has been submitted as a Proposed Resource and Seller has provided Buyer a Confirmation Notice in response to a Resource Commitment Notice whereby Buyer elected to participate in the Proposed Resource.

“**Small Generation Threshold**” shall mean, for any Resource, six (6) kW during the Rate Freeze, with such threshold increasing annually by one (1) kW commencing at the start of the first (1st) Year following the conclusion of the Rate Freeze through and including the sixth (6th) Year thereafter, such that commencing at the start of the sixth (6th) Year following the conclusion of the Rate Freeze and thereafter for the duration of the Term, the Small Generation Threshold shall be twelve (12) kW.

“**Stranded Asset Losses**” shall have the meaning specified in Section 13.6(b)(iii)(D).

“**Submission Date**” shall have the meaning specified in Section 8.1(b)(iii)(2).

“**Term**” means the term of this Agreement determined in accordance with Section 2.2(b).

“**Termination Notice**” shall have the meaning specified in Section 2.2(b).

“**Termination Payment**” shall have the meaning specified in Section 13.6(b)(iii).

“**Time of Use Rates**” means rates that are designed to manage load by shifting on-peak energy use to other Hours.

“**Transmission Provider**” means any entity transmitting electric energy provided under this Agreement and shall include Seller, Buyer, and any ISO, RTO, ITC, or other future organization, agency or authority that has been approved by FERC to serve as a transmission provider over electric transmission facilities owned by Seller and/or Buyer.

“**Transmission Service**” means the transmission service and Ancillary Services provided by a Transmission Provider to Seller and/or Buyer for the delivery of electric energy provided by Seller under this Agreement.

“**Transmission Rates**” shall have the meaning specified in Section 2.1(b).

“**Transmission System**” means the electric transmission assets owned, or leased and operated, by Buyer or a Transmission Provider.

“**Variable O&M Rate**” shall have the meaning specified in Section 6.4(b).

“**Weather-Normalized**” means a quantity adjusted to reflect the difference between actual weather versus normal weather, where actual weather is represented by the cooling degree days (CDDs) and heating degree days (HDDs) for that Year and the normal weather is

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represented by the average Monthly CDDs and HDDs over the past twenty years. The weather adjustment is calculated using a regression analysis of historical Monthly loads as the dependent variable and CDD and/or HDD, along with other relevant variables, as the independent variables.

“**Year**” means a calendar year; *provided*, that the first Year shall commence at 00:00 hours Eastern Time on the Commencement Date and end at 23:59 Eastern Time on December 31 of the calendar year in which the Commencement Date occurs. The last Year shall end at 23:59 Eastern Time on the date of termination of this Agreement.

Section 1.2 Interpretation.

In this Agreement, unless the context otherwise requires, the singular shall include the plural and any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import when used in this Agreement shall, unless otherwise expressly specified, refer to this Agreement as a whole and not to any particular provision of this Agreement. Whenever the terms “include,” “includes,” or “including” are used herein in connection with a listing of items included within a prior reference, such listing shall be interpreted to be illustrative only, and shall 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,” “Article” or “Appendix,” shall be references to this Agreement unless otherwise stated, and all such Sections, Articles or Appendix shall be incorporated in this Agreement by reference; *provided*, that in the event of a conflict between the terms of any Appendix and the terms of this Agreement, the terms of this Agreement shall prevail. In the event that any index or publication referenced in this Agreement ceases to be published, each such reference shall be deemed a reference to a successor or alternate index or publication reasonably agreed to by the Parties. Unless otherwise stated, any reference in this Agreement to any entity shall include its permitted successors and assignees, and in the case of any Governmental Authority, any Person succeeding to its functions and capacities. All dollar amounts referred to in this Agreement shall be in U.S. currency.

Section 1.3 Construction.

The Parties acknowledge that each was actively involved in the negotiation and drafting of this Agreement and that no Law or rule of construction shall be raised or used in which the provisions of this Agreement shall be construed in favor of or against either Party because one is deemed to be the author thereof. The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement, (a) where this Agreement requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed unless expressly stated, and (b) wherever this Agreement gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable. Each Party conducts and shall conduct its operations in a manner intended to comply with FERC Order No. 717, Standards of Conduct for Transmission Providers, and its companion orders, requiring the separation of its transmission and merchant functions. Buyer expressly recognizes that, for

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purposes hereof, the Seller, when acting as a Transmission Provider, shall be deemed to be a separate entity and separate contracting party from Seller, acting hereunder in its merchant function whether or not a contract for Transmission Service is entered into with Seller an Affiliate thereof. Buyer acknowledges that Seller, acting in its merchant function as Seller hereunder, has no responsibility for or control over Transmission Provider, and, except as specifically provided herein, is not liable for any breach of agreement or duty by Transmission Provider.

**ARTICLE 2 -
TERM**

Section 2.1 Effective Date.

(a) Effectiveness of the Agreement. This Agreement shall become effective upon execution and delivery by the Parties (“**Effective Date**”), *provided* that the obligations of the Parties to purchase and sell electric capacity and energy hereunder shall commence on the Commencement Date, subject to the satisfaction of the conditions precedent in Section 3.1 and Section 3.2.

(b) FERC Acceptance. On the Effective Date, Seller shall provide to Buyer forms of the Section 205 applications to be filed with FERC with respect to this Agreement and Seller’s OATT (including in each case supporting testimony and cost-of-service support) for review and comment. Within ten (10) Business Days of the Effective Date, Buyer shall provide comments to Seller on the same. Seller shall finalize the filings, giving due consideration to Buyer’s comments and, within twenty (20) Business Days of the Effective Date, the Parties will hold a joint pre-filing conference with FERC Staff (to the extent FERC agrees to the same). Promptly thereafter, Seller shall file this Agreement and Seller’s OATT and supporting documents for each with FERC pursuant to the requirements of Section 205 of the Federal Power Act after giving due consideration of FERC Staff’s comments, if any, based on the pre-hearing conference, if any. In its filings with FERC, Seller shall request in Seller’s as-filed OATT a stated rate for network transmission service of not more than \$1.75 per kW-month and scheduling service of not more than \$0.08 per kW-month (the “**Transmission Rates**”). After such filing, Seller shall diligently pursue acceptance or approval of this Agreement and Seller’s OATT by FERC effective as of the Commencement Date, and shall keep Buyer informed of the progress in such regard. If requested by Seller, Buyer shall undertake Commercially Reasonable Efforts to cooperate with and assist Seller in Seller’s efforts to make this Agreement and Seller’s OATT effective as of the Commencement Date, and secure the support of the LSEs in obtaining such outcome. Upon Seller’s request, Buyer shall make a timely submittal at FERC affirmatively supporting the acceptance or approval of this Agreement and Seller’s OATT (including the Transmission Rates) by FERC without modification, suspension, investigation, or other condition. To the extent FERC requires modifications to this Agreement that are mutually acceptable to Seller and Buyer, the Parties shall promptly execute an amendment to this Agreement that implements such modifications. During the Rate Freeze, Seller shall not seek any increase of the stated network transmission rate or scheduling service rate that would result in the sum of such rates exceeding the sum of the Transmission Rates.

Section 2.2 Term.

(a) Initial Term. The initial term of this Agreement shall commence on the Commencement Date and shall continue through 23:59:59 Eastern Time, on December 31, 2058 (“**Initial Term**”), subject to any termination or extension in accordance with Section 2.2(b), or an early termination in accordance Section 2.3.

(b) Extension. Either Party may terminate this Agreement on not less than ten (10) year’s prior written notice to the other Party, effective no earlier than at the expiration of the

Initial Term. If not so terminated, effective at the expiration of the Initial Term, this Agreement shall automatically renew and extend for consecutive, subsequent terms of thirty-five (35) years (each such stated thirty-five (35) year extension term being an “**Extension Term**”); *provided, however*, this Agreement may be terminated by either Party effective at any time subsequent to the expiration of the Initial Term (whether or not at the stated end of any thirty-five (35) year term subsequent to the Initial Term) by written notice given to the other Party at least ten (10) years prior to the desired termination date. The Initial Term, together with each Extension Term (the duration of which shall be as determined in accordance with this Section 2.2(b)), if any, shall constitute the “**Term**.” Any notice of termination given in accordance with this Section 2.2(b) is referred to as a “**Termination Notice**.”

(c) Adjustment Factor. In the event a Party delivers a Termination Notice, the Requirements Portion shall be adjusted through application of the following factors (each, an “**Adjustment Factor**”) in accordance with Section 4.1 and the tables set forth below. For the avoidance of doubt, in all other Years of the Term, the Adjustment Factor shall be 1.0.

Year	Adjustment Factor
4th Year prior to end of Term	0.8
3rd Year prior to end of Term	0.6
2nd Year prior to end of Term	0.4
Last Year prior to end of Term	0.2

Section 2.3 Early Termination.

Early termination of this Agreement shall be permitted only under the following circumstances:

(a) Early Termination for an Event of Default. In the event that an Event of Default occurs, the Non-Defaulting Party may terminate this Agreement as, and to the extent, set forth in Section 13.6.

(b) Early Termination for Failure of Condition Precedent. This Agreement may be terminated for failure of a condition precedent as, and to the extent, set forth in Section 3.5.

(c) Absolute Nature of Termination.

Both Parties hereby acknowledge, warrant, and agree that TERMINATION OF THIS AGREEMENT FOR ANY REASON PROVIDED FOR AND PERMITTED UNDER THIS AGREEMENT IS ABSOLUTE AND FOREVER EXTINGUISHES ANY AND ALL OBLIGATIONS EXISTING UNDER THIS AGREEMENT FOR (A) SELLER TO PLAN OR PROCURE RESOURCES TO SERVE BUYER, OR TO PROVIDE ANY SERVICE OR PRODUCT TO BUYER, AND (B) BUYER TO PURCHASE FROM AND PAY SELLER FOR ANY SERVICES OR PRODUCTS. Upon termination of this Agreement in accordance with Section 2.2 or Section 2.3, each and every obligation of Seller to sell and deliver capacity and energy to Buyer pursuant to this Agreement, and each and every right of Buyer to purchase and receive capacity and energy from Seller pursuant to this Agreement, shall cease as a matter of contract and neither Party shall claim or assert any continuing right to continued performance,

whether by “rollover,” as an “evergreen” service, or in any other fashion based on this Agreement. By entering into this Agreement, Seller does not commit, and shall not be deemed to have committed, to plan its system to be able to provide any service to Buyer beyond the Term, and Buyer agrees that it has no claim to any service beyond the Term. The Parties acknowledge, warrant, and agree that it is the express intention of the Parties that no action by any Governmental Authority may override the terms of this Section 2.4, and that should any Governmental Authority take any action purporting to, or that might be claimed to, override the terms of this Section 2.4, either directly or indirectly, neither Seller nor Buyer shall make any claim or assert any right based on or relying on such Governmental Authority action in any manner that conflicts with or frustrates the terms of this Section 2.4.

ARTICLE 3 - CONDITIONS PRECEDENT TO THE COMMENCEMENT DATE

Section 3.1 Conditions Precedent to Seller’s Obligations.

The obligation of Seller to commence sales of electric energy and capacity under this Agreement commencing on the Commencement Date (to the extent it occurs in accordance with its terms) is subject to the satisfaction or waiver of the following conditions on or prior to the Commencement Date:

(a) The representations and warranties of Buyer set forth in Section 13.1 shall be true and correct in all material respects, and Buyer shall have performed and complied with, in each case in all material respects, the covenants and obligations required by this Agreement to be performed or complied with by Buyer at or before the Commencement Date.

(b) The Closing shall have occurred.

(c) FERC shall have issued an order, under Section 205 of the Federal Power Act, reasonably satisfactory to Seller in all material respects, accepting or approving this Agreement for filing and permitting it to become effective as of the Commencement Date.

(d) FERC shall have issued an order, under Section 205 of the Federal Power Act, reasonably satisfactory to Seller in all material respects, accepting or approving Seller’s OATT for filing and permitting it to become effective as of the Commencement Date.

(e) Buyer, Santee Cooper and, if appropriate, Seller shall have, on the Effective Date, entered into an agreement, substantially in the form set forth at Appendix F, terminating the CIA concurrent with the Commencement Date and upon the terms and conditions set forth therein (the “**CIA Termination Agreement**”), and the CIA shall have terminated in accordance with the CIA Termination Agreement concurrently with the Commencement Date.

(f) Seller and Buyer shall have entered into an agreement, substantially in the form set forth at Appendix G, for Seller to operate and maintain Buyer’s Transmission System (the “**Operations and Maintenance Agreement**”).

(g) The RUS shall have either approved this Agreement, on or prior to the Commencement Date, without modifications or other conditions materially adverse to Seller, or

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allowed for expiration of the sixty (60) Day waiting period following delivery of a notice from Buyer.

(h) Each Central-LSE Agreement is in full force and effect in all material respects and, (i) neither Buyer nor any LSE is in material breach of or material default under any Central-LSE Agreement, and (ii) except as provided in Section 13.1(d)(iii), none of the LSEs has threatened in writing to terminate or cancel, or to challenge the validity or enforceability of, any Central-LSE Agreement.

(i) Buyer has obtained commitments, in the form attached as Appendix H, from at least twelve (12) of the LSEs to support or not oppose FERC acceptance of this Agreement without condition or modification.

Section 3.2 Conditions Precedent to Buyer's Obligations.

The obligation of Buyer to commence purchases of electric energy and capacity under this Agreement is subject to the satisfaction or waiver of the following conditions prior to the Commencement Date:

(a) The representations and warranties of Seller set forth in Section 13.1 shall be true and correct in all material respects, and Seller shall have performed and complied with, in all material respects, the covenants and obligations required by this Agreement to be performed or complied with by Seller at or before the Commencement Date.

(b) The Enabling Legislation shall have been enacted without modifications or other conditions that are materially adverse to Buyer as compared to the most recent draft legislation shared with Buyer as of the Effective Date; *provided*, that any modification to the most recent draft legislation shared with Buyer as of the Effective Date that directly or indirectly (i) increases any amounts charged to Buyer, any LSE or LSE customers in connection with the CEU Securitization, or (ii) otherwise imposes additional charges on Buyer, any LSE or LSE customer outside of this Agreement shall be considered materially adverse to Buyer.⁴

(c) The RUS shall have either approved this Agreement, on or prior to the Commencement Date, without modifications or other conditions materially adverse to Buyer, or allowed for expiration of the sixty (60) Day waiting period following delivery of a notice from Buyer.

(d) Buyer shall have been granted transmission service from the Seller Delivery Points to the Buyer's Transmission System (as required for Buyer to deliver to the Buyer Delivery Points) or Buyer Delivery Points, as applicable, by the Transmission Provider, including the designation of this Agreement as a "Network Resource" (as such term is defined in an applicable Transmission Provider's OATT) and Buyer and Transmission Provider shall have executed a network service agreement substantially in the form set forth at Appendix D (the "**Network Integration Transmission Service Agreement**"), pertaining to which the FERC

⁴ Subject to review and acceptance by Buyer of any changes that have a material effect on Buyer or its customers in the Enabling Legislation in comparison to the 2.02.2020 draft legislation provided by Seller and as may be proposed or in effect as of Effective Date.

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shall have issued an order accepting or approving such service agreement for filing and permitted it to become effective at or before the Commencement Date as filed or on such modified terms as are reasonably acceptable to Buyer.

(e) FERC shall have issued an order, under Section 205 of the Federal Power Act, reasonably satisfactory to Buyer in all material respects, accepting or approving this Agreement for filing and permitting it to become effective as of the Commencement Date.

(f) FERC shall have issued an order, under Section 205 of the Federal Power Act, reasonably satisfactory to Buyer in all material respects, accepting or approving Seller's OATT for filing and permitting it to become effective as of the Commencement Date.

(g) Buyer, Santee Cooper and, if appropriate, Seller shall have entered into the CIA Termination Agreement on the Effective Date and the CIA shall have terminated in accordance with the CIA Termination Agreement concurrently with the Commencement Date.

(h) Buyer and Seller shall have entered into the Operations and Maintenance Agreement.

Section 3.3 Notice and Effect of Satisfaction of Conditions Precedent.

Each Party shall, in order to consummate the transactions contemplated hereby, proceed diligently and use Commercially Reasonable Efforts to satisfy the conditions precedent as promptly as practicable. Buyer shall provide Seller with written notice promptly following the satisfaction or waiver of the conditions precedent to Buyer's obligations set forth in Section 3.2. Seller shall provide Buyer with written notice promptly following the satisfaction or waiver of the conditions precedent to Seller's obligations set forth in Section 3.1.

Section 3.4 Waiver of Condition Precedent.

(a) Waiver by Seller. In the event that any of the foregoing conditions to the obligations of Seller contained in Section 3.1 shall fail to be satisfied, Seller may elect, in its sole discretion to the extent lawful, to waive such conditions and consummate this Agreement despite such failure by providing notice to Buyer of such intention, in which event Seller shall be deemed to have waived any claim for damages, losses or other relief arising from or in connection with such failure of which Seller had knowledge, unless otherwise agreed in writing and executed by the Parties.

(b) Waiver by Buyer. In the event that any of the foregoing conditions to the obligations of Buyer contained in Section 3.2 shall fail to be satisfied, Buyer may elect, in its sole discretion to the extent lawful, to waive such conditions and consummate this Agreement despite such failure, by providing notice to Seller of such intention, in which event Buyer shall be deemed to have waived any claim for damages, losses or other relief arising from or in connection with such failure of which Buyer had knowledge, unless otherwise agreed in writing and executed by the Parties.

Section 3.5 Termination for Failure of Condition Precedent.

In the event that any of the conditions precedent set out in Section 3.1 or Section 3.2 are not satisfied or waived on or before twelve (12) Months following the Execution Date (the “**End Date**”),⁵ then Buyer or Seller may terminate this Agreement; *provided*, that the right to terminate this Agreement under this Section 3.5 will not be available to a Party whose unexcused failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Commencement Date to occur on or before the End Date; *and, provided, further*, the Parties shall have a period of ninety (90) Days from the End Date to negotiate in good faith the potential satisfaction or waiver of any outstanding conditions precedent. If the Parties are unable to satisfy or waive all outstanding conditions precedent by the end of such ninety (90) Day period, then this Agreement will terminate automatically without the need for either Party to give notice of termination and neither Seller nor Buyer shall have any obligation, duty or liability to the other Party under this Agreement for any claim arising under any allegation, demand or theory whatsoever.

ARTICLE 4 - SALE OF ELECTRIC CAPACITY AND ENERGY

Section 4.1 Service.

(a) Requirements Portion. Subject to the terms and conditions of this Agreement, during the period beginning on the Commencement Date, and continuing during each Hour throughout the Term, Seller shall sell and deliver to Buyer at the Seller Delivery Points, and Buyer shall purchase and receive from Seller at the Seller Delivery Points, all of the electric capacity and energy that Buyer requires to serve the Requirements Portion. The “**Requirements Portion**” for each Hour shall equal (i) the LSEs Metered Load, plus transmission losses calculated in accordance with Section 6.15; (ii) *minus* the hourly share of the capacity or energy output, as applicable, of (A) the SEPA Entitlement and (B) any Existing Generation or Non-Shared Resources that are External Resources (including Resources to serve Buyer Designated Delivery Points); (iii) *minus*, subject to the requirements of Section 5.2, the energy output or capacity (as to capacity, such output when measured for purposes of determining capacity requirements) from any External Resources that are (A) PURPA Resources or (B) Permitted Additional Resources; (iv) *plus*, as to capacity only and not energy, the quantity of output when measured for purposes of determining capacity requirements from any Internal Resources that are (A) PURPA Resources or (B) Permitted Additional Resources that are added-back and calculated pursuant to Section 5.2(c) and Section 5.2(h); the net quantity of subparts (i) through (iv), *multiplied* by (v) the Adjustment Factor. Except for the Seller Generation System and the resources described in Section 5.2, no electric capacity and energy resources, including generation resources and purchased power shall be applied to serve the Requirements Portion at any time during the Term.

(b) LSEs. None of the LSEs is a Party to, or a third-party beneficiary of, this Agreement, and neither Seller nor Buyer has any obligations to any of the LSEs under this Agreement. However, because this Agreement requires certain information, cooperation and coordination to be provided by each LSE in furtherance of the Parties’ performance hereunder,

⁵ Buyer to confirm consistency with APA following receipt of a copy of the APA by Seller.

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Buyer shall use Commercially Reasonable Efforts to cause each LSE to comply with the foregoing.

Section 4.2 Firmness of Service.

(a) Subject to the terms and conditions of this Agreement, Seller shall supply and deliver capacity and energy in a manner that is as firm as, and otherwise comparable with, the manner in which Seller supplies Seller Native Load from its own designated Network Resources (as such term is defined in an applicable Transmission Provider's OATT). Seller shall not curtail the sale and delivery of capacity and energy to Buyer under this Agreement in order to enable Seller to sell the capacity or energy required by this Agreement at a more advantageous price than is provided hereunder (or to indirectly accomplish a similar economic advantage).

(b) Curtailement of Load. It is expressly understood and agreed that, except for Seller's failure to comply with the provisions of Section 4.2(a) or this Section 4.2(b), Seller shall not be liable to Buyer or the LSEs for damages resulting from any interruption, reduction of supply, curtailment or impairment to, or restoration of, service (including transmission curtailments and generation deficits) caused by Seller ("**Curtailement(s)**") including those Curtailements by Seller necessary for inspection, repair or changes in the generating equipment used by Seller to serve the Requirements Portion; provided, Curtailements are not occasioned by Seller's negligence. In the event that Seller curtails Seller Native Load for any reason, including Force Majeure or to preserve the integrity of the Seller Generation System (after Seller has utilized Commercially Reasonable Efforts to mitigate such events), Seller may curtail service to Buyer under this Agreement, and Seller shall have sole responsibility and discretion to implement, order and effect, in any manner, such Curtailements that Seller believes are necessary or appropriate, and in no event shall such Curtailements constitute negligence by Seller. In implementing any Curtailement for any reason, including transmission curtailements and generation deficits, (i) Seller shall make no adverse distinction between Seller Native Load and Seller's obligations to sell and deliver capacity and energy to Buyer hereunder, and (ii) when restoring any Curtailement, Seller shall not discriminate against the restoration of curtailed supply to Buyer and the restoration of curtailed Seller Native Load. In the event of a Curtailement hereunder, upon Buyer's written request, Seller shall provide Buyer with a written explanation of the curtailement procedure applied under this Section 4.2(b).

(c) Emergency Load Curtailement Program. Buyer shall use Commercially Reasonable Efforts to cause each LSE to (i) adopt, implement and maintain an emergency load curtailement program in the event a Curtailement is effected by Seller, and (ii) comply with its obligation to curtail its LSE Native Load Customers in a manner consistent with such emergency load curtailement program.

(d) Transmission. Notwithstanding anything to the contrary contained herein, Buyer recognizes that the Transmission Provider may curtail service to Buyer and LSE Native Load in a non-discriminatory manner as provided in the OATT and that, upon notification of such a Transmission Provider curtailement, Buyer, the LSEs and Seller shall be obligated to comply with such notification as provided in the OATT. If Buyer or a LSE fail to institute the required curtailement, the Transmission Provider may be entitled to limit deliveries during the period any shortage of capacity and/or energy exists as provided in the OATT. In no event shall Seller be

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liable under this Agreement for any shortage of capacity and/or energy to the extent resulting from any acts or omissions of Seller (as Transmission Provider) under the Network Integration Transmission Service Agreement. Similarly, in no event shall Buyer be liable under this Agreement for any obligation under the Network Integration Transmission Service Agreement.

Section 4.3 Good Title.

Electric energy that is delivered to Buyer shall be free and clear of all liens, Claims, and encumbrances at the Seller Delivery Points, where title to electric energy provided by Seller hereunder shall transfer to Buyer.

Section 4.4 Power Quality.

All electric energy provided hereunder at the Seller Delivery Points shall be three (3) phase, sixty (60) hertz, and at Seller's system nominal voltages.

Section 4.5 Failure to Deliver or Receive Energy.

In any Hour, in the event that (a) Seller fails to meet its obligation under Section 4.1(a) and Section 4.2(a) to sell and deliver the Requirements Portion, or (b) Buyer fails to meet its obligation under Section 4.1(a) to purchase and receive the Requirements Portion, it is expressly acknowledged that the other Party's exclusive remedy for such failure shall be as set out in Section 4.5(a) or Section 4.5(b), as applicable.

(a) Seller Failure. For any Hour in which Seller fails to deliver the Requirements Portion and such failure is not excused under the terms of this Agreement, including Section 4.2(b) and Section 13.5, or by Buyer's failure to receive such energy, then Seller shall reduce its Monthly bill to Buyer for the Month in which such failure occurred by an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the sum of the Hourly Fuel Charge and the Hourly Variable O&M Charge for such Hour which would have been charged for the amount of energy not delivered from the Replacement Price. The invoice for such Month shall include a written statement explaining in reasonable detail the calculation of such amount. For purpose of this Section 4.5(a), "**Replacement Price**" means the price, including any payments for capacity, at which Buyer, using Commercially Reasonable Efforts, purchases a replacement for the amount of energy not delivered by Seller, *plus* (i) any costs reasonably incurred by Buyer in purchasing such replacement energy, and (ii) any transmission charges reasonably incurred by Buyer to a Transmission Provider, or, at Buyer's election, the market price in the Seller BAA for such energy not delivered as determined by Buyer using Commercially Reasonable Efforts; *provided, however*, in no event shall such price include any penalties or ratcheted demand charges incurred in connection with deliveries of replacement energy, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability hereunder. Notwithstanding the foregoing, Buyer shall remain obligated to pay the Monthly Demand Charge for such Month calculated in accordance with Section 6.2.

(b) Buyer Failure. For any Month in which Buyer fails to accept delivery of or to receive the Requirements Portion for one or more Hours for any reason, Buyer shall remain

obligated to pay the Monthly Demand Charge and the Seller's Monthly Energy Charge for such Month calculated in accordance with Section 6.2.

Section 4.6 Signals.

(a) Dynamic Signals. Deliveries of energy to the Buyer's Transmission System (as required for Buyer to deliver to the Buyer Delivery Points) or the Buyer Delivery Points will be arranged pursuant to the Network Integration Transmission Service Agreement through use of dynamic (instantaneous) signals (the "**Dynamic Signals**") of the measurement of the LSEs Metered Load compensated to the Buyer Delivery Point. Buyer shall install and maintain, or cause to be installed and maintained, at Buyer's expense, systems and equipment compatible with Seller's systems in order to telemeter the Dynamic Signals to Seller. Seller will (i) be responsible for meeting all e-tagging requirements regarding the Dynamic Signal, and (ii) deliver energy, in accordance with the terms of this Agreement, in response to the Dynamic Signals transmitted to communication equipment in Seller's facilities as specified by Seller (the "**Demarcation Points**"). Seller will not be obligated to deliver energy if the Dynamic Signals are not transmitted to the Demarcation Points until directed by Buyer.

(b) Instantaneous Generation Signal. Buyer will install and maintain, at Buyer's expense, or cause to be installed and maintained, equipment required to provide an instantaneous generation signal to Seller from any Existing Generation, PURPA Resources and any applicable Permitted Additional Resources. Such equipment shall conform to the standards and practices of the Transmission Provider's Balancing Authority Area.

**ARTICLE 5 -
DSM PROGRAMS, TOU RATES, ENERGY EFFICIENCY PROGRAMS, PERMITTED
ADDITIONAL RESOURCES**

Section 5.1 DSM Programs; Time of Use Rates; Energy Efficiency Programs.

Buyer and each of the LSEs shall have the right to implement and operate LSE DSM Programs, LSE Time of Use Rates, and LSE Energy Efficiency Programs. For clarity, load (demand and energy) reduced through such programs shall not be included in LSEs Native Load, LSEs Metered Load or the Requirements Portion. Buyer shall give written notice to Seller of the terms of each LSE DSM Program, LSE Time of Use Rate, and LSE Energy Efficiency Program at least ninety (90) Days before such program will be in effect.

Section 5.2 Service of Native Load and Permitted Additional Resources.

The LSEs Native Load shall be served only by (a) Seller in accordance with this Agreement, (b) the SEPA Entitlement, (c) PURPA Resources, (d) Existing Generation, (e) subject to the requirements of this Section 5.2, Permitted Additional Resources, (f) RPS Compliance Resources (g) Program Resources, and (h) Non-Shared Resources (including Resources to serve Buyer Designated Delivery Points). "**Permitted Additional Resources**" shall mean Renewable Energy Resources, Distributed Energy Resources and Behind the Meter Energy Resources, for the avoidance of doubt, utilized solely to serve LSEs Native Load. Seller may, but shall not be obligated by this Agreement, to purchase capacity and energy from PURPA Resources and Permitted Additional Resources on Buyer's Transmission System.

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(a) SEPA Entitlement. Buyer may use any SEPA Entitlement allocated to Buyer to serve the LSEs Native Load, the capacity and energy purchased therefrom shall be excluded from the Requirements Portion. Buyer shall provide written notice to Seller at least ninety (90) Days prior to the effectiveness of any modification to the SEPA Entitlement.

(b) Existing Generation. Buyer or a LSE may serve LSEs Native Load utilizing energy generated by electric generating resources, owned or leased by Buyer or a LSE, or power purchase agreements, each such electric generation resources or power purchase agreement existing as of January 15, 2020 (in the form in which they existed as of such date), as such resources and agreements are designated in Appendix C (“**Existing Generation**”). The capacity and energy purchased from Existing Generation shall reduce the Requirements Portion. Resources constituting Existing Generation may be extended or replaced from time to time; *provided*, that the aggregate capacity of Existing Generation shall not exceed the nominal amount set forth in Appendix C.

(c) PURPA Resources. Buyer or a LSE may be entitled to capacity and to use energy from PURPA Resources to serve the LSEs Native Load to the extent Buyer or a LSE is required by Law to purchase capacity and energy under the provisions of PURPA. Buyer shall have the right, but not the obligation, to require Seller to negotiate with the owner or supplier of a PURPA Resource (including Buyer or a LSE) to purchase the PURPA Resource’s capacity and energy directly, at a cost not exceeding the Seller’s Avoided Cost Rate. However, if Buyer or an LSE purchase capacity and energy from a PURPA Resource, then (i) the quantity of the purchased energy *shall* reduce the Requirements Portion and *shall not* be added back by Seller for the purpose of calculating the Monthly Energy Charge, and (ii) the quantity of the purchased capacity *shall* be added back by Seller for the purpose of calculating the Monthly Demand Charge (to the extent such PURPA Resources are Internal Resources that would reduce LSEs Metered Load). For the avoidance of doubt, the Party making such a PURPA purchase shall be responsible for any transmission that may apply with respect to the delivery of capacity and energy it purchases from a PURPA Resource to an applicable Delivery Point.

(d) Renewable Energy Resources. Subject to Section 5.2(h) and provided the Renewable Energy Resource is not also a PURPA Resource, Buyer or a LSE may utilize capacity and energy from Renewable Energy Resources to serve LSEs Native Load and, subject to Section 5.2(g) to satisfy a RPS Compliance Obligation; *provided*, if such Renewable Energy Resources are competitively bid by Buyer, then Seller shall be afforded the right to participate in the bid process.

(e) Distributed Energy Resources. Buyer or a LSE may participate in any of Seller’s Distributed Energy Resource programs. In addition, and subject to Section 5.2(h), Buyer or a LSE may utilize capacity and energy from Distributed Energy Resources to serve LSEs Native Load; *provided*, if such Distributed Energy Resources are competitively bid by Buyer, then Seller shall be afforded the right to participate in the bid process.

(f) Behind the Meter Energy Resources. Subject to Section 5.2(h), Buyer or a LSE may utilize capacity and energy from Behind the Meter Energy Resources to serve LSE Native Load Customers; *provided*, if such Behind the Meter Energy Resources are competitively bid by Buyer, then Seller shall be afforded the right to participate in the bid process. Notwithstanding

the foregoing, in the event Seller seeks and receives approval from the PSCSC to offer programs and services to its retail customers for energy or capacity delivered behind the retail meter (“**BTM Programs**”), then Buyer or an LSE may offer the same BTM Programs to its customers and the Resources utilized by Buyer or an LSE to provide such BTM Programs (a “**Program Resource**”) shall be excluded from determining any limitation on Permitted Additional Resources as applied against the then-applicable PAR Aggregate Cap.

(g) RPS Compliance Resources. If Buyer or a LSE becomes subject to a RPS Requirement (a “**RPS Compliance Obligation**”), the following shall apply:

(i) Buyer shall give Seller written notice of such RPS Compliance Obligation and, pursuant to such notice, Buyer or the LSE may elect to satisfy all or part of such obligation by utilizing Existing Generation, Renewable Energy Credits assignable to Buyer pursuant to Section 5.2(g)(iv), or, subject to Section 5.2(h), Renewable Energy Resources.

(ii) If Buyer or the LSE elects not to satisfy such RPS Compliance Obligation in the manner set forth in subpart (i), in whole or in part, then Buyer shall give Seller written notice of such election, and Seller shall have the right, but not the obligation, to the extent permitted by Law, to satisfy such RPS Compliance Obligation on behalf of Buyer or the LSE, by providing Buyer and the LSE written notice identifying the means by which Seller would satisfy such obligation.

(iii) To the extent a RPS Compliance Obligation of Buyer or a LSE is not fully satisfied by Buyer or the LSE (pursuant to Section 5.2(g)(i)) or Seller (pursuant to Section 5.2(g)(ii)), then Buyer or the LSE shall be permitted to procure environmental attributes and benefits, including Renewable Energy Certificates, as necessary to satisfy the RPS Compliance Obligation. In the event Buyer or a LSE satisfies a RPS Compliance Obligation pursuant to this Section 5.2(g)(iii), then, notwithstanding Section 5.2(e) and Section 5.2(h), Buyer or the LSE may utilize capacity and energy from a Renewable Energy Resource to satisfy such RPS Compliance Obligation (such resource, a “**RPS Compliance Resource**”), and the amount of capacity and energy generated by, or purchased from, such RPS Compliance Resource in any Month utilized by Buyer or a LSE to satisfy such RPS Compliance Obligation shall *not* be added back by Seller for purposes of calculating the Monthly Demand Charge or the Monthly Energy Charge for such Month.

(iv) To the extent, pursuant to Section 5.2(h)(ii), Seller satisfies a RPS Compliance Obligation on behalf of Buyer or a LSE, then Seller shall be entitled to all environmental attributes and benefits, including Renewable Energy Certificates generated and associated with such RPS Compliance Obligation for the sole purpose of satisfying Buyer’s or LSE’s RPS Compliance Obligation on its behalf. Otherwise, subject to Section 6.13, (i) to the extent the costs incurred by Seller associated with generating or procuring such environmental attributes and benefits, including Renewable Energy Credits, are recovered in Buyer’s rates, or (ii) if the RPS Compliance Obligation requires that Buyer, or a LSE, demonstrate compliance with such obligation, then Seller shall assign, transfer and deliver to Buyer or the LSE its proportionate share of any such environmental attributes and benefits, including Renewable Energy Certificates.

(h) Application of PAR Aggregate Cap. The PAR Aggregate Cap shall apply as follows:

(i) To the extent that the aggregate amount of Nameplate Capacity of all Permitted Additional Resources utilized by Buyer or the LSEs (excluding all capacity from any Resource, the Nameplate Capacity of which does not exceed the Small Generation Threshold) exceeds the PAR Aggregate Cap, then (A) the amount of energy generated by or purchased from such excess Nameplate Capacity in any Month *shall not* be added back by Seller for the purposes of calculating the Monthly Energy Charge, and (B) the amount of energy generated by or purchased from such excess Nameplate Capacity in any Month *shall* be added back by Seller for the purposes of calculating the Monthly Demand Charge.

(ii) Notwithstanding subpart (i) above and solely with respect to a Renewable Energy Resource, a Distributed Energy Resource (that qualifies as a Renewable Energy Resource) or a Behind the Meter Energy Resource (that qualifies as a Renewable Energy Resource), the Nameplate Capacity of each such resource does not exceed one (1) MW (each such resource, an “**Excluded Resource**”), from and after the conclusion of the Rate Freeze such Excluded Resource shall be excluded from determining any limitation on Permitted Additional Resources as applied against the then-applicable PAR Aggregate Cap and the amount of capacity and energy generated by, or purchased from, such Excluded Resource in any Month *shall not* be added back by Seller for purposes of calculating the Monthly Demand Charge or the Monthly Energy Charge for such Month (notwithstanding that such Renewable Energy Resource may also fall within the definition of another category of Resource).

(iii) For the avoidance of doubt, to the extent that any RPS Compliance Resource is utilized by Buyer or a LSE to satisfy a RPS Compliance Obligation pursuant to Section 5.2(g)(iii) or to the extent any Program Resource is utilized by Buyer or a LSE in connection with a BTM Program pursuant to Section 5.2(f), such RPS Compliance Resource or Program Resource shall be excluded from determining any limitation on Permitted Additional Resources as applied against the then-applicable PAR Aggregate Cap (notwithstanding that such RPS Compliance Resource or Program Resource may also fall within the definition of a Permitted Additional Resource).

(i) Notice. Buyer shall provide Seller with written notice of any acquisition of, installation of, or purchase from a PURPA Resource or a Permitted Additional Resource by Buyer or a LSE. Such notice shall (i) include the nature, location, size and operating characteristics of such PURPA Resource or Permitted Additional Resource, and any other information reasonably requested by Seller of such PURPA Resource or Permitted Additional Resource or terms of such purchase, and (ii) be delivered to Seller as soon as reasonably practicable, but in no event less than three (3) Months from the first to occur of (A) the planned start of construction of such resource, (B) the execution of a transmission interconnection facilities construction agreement with respect to such resource, or (C) the execution of a power purchase agreement associated with such resource. The notice requirements set forth in this Section 5.2(i) shall not apply to a PURPA Resource or a Permitted Additional Resource with a Nameplate Capacity of fifty (50) kW or less.

**ARTICLE 6 -
CAPACITY AND ENERGY CHARGES**

Section 6.1 General.

Buyer shall pay to Seller the Monthly Demand Charge set forth in Section 6.2 and the Seller Monthly Energy Charge set forth in Section 6.4.

Section 6.2 Monthly Demand Charge.

The “**Monthly Demand Charge**” for a Month shall be equal to the product of (i) the Monthly Billing Demand for the Month (in kW), and (ii) the Monthly Demand Rate (\$/kW-Month).

(a) Monthly Demand Rate. During the first forty-eight (48) Months of the Initial Term (the “**Rate Freeze**”), the “**Monthly Demand Rate**” shall be \$16.56/kW-month. After the Rate Freeze, the Monthly Demand Rate shall be the rate determined on line 13 of Appendix A-1 of the Microsoft Excel workbook that is included as Appendix A to this Agreement (“**Formula Rate**”) and shall be subject to true-up as set forth in Section 6.9.

(b) Monthly Billing Demand. The “**Monthly Billing Demand**” for each Month shall be equal to (A) (i) the integrated sixty (60) minute LSEs Metered Load in MW for the Hour coincident with the highest Hourly (integrated sixty-minute) Seller Demand during the applicable Month, (ii) *minus* a quantity equal to the capacity in MW of the then-applicable SEPA Entitlement, (iii) *minus* the energy supplied in such Hour (integrated sixty (60) minute) in MW from Existing Generation, Non-Shared Resources and RPS Compliance Resources that are External Resources, (iv) *minus*, subject to the requirements of Section 5.2, the energy supplied in such Hour (integrated sixty (60) minute) from Permitted Additional Resources that are External Resources, (v) *plus*, subject to the requirements of Section 5.2, the energy supplied during such Hour (integrated sixty (60) minute) from Permitted Additional Resources in excess of the PAR Aggregate Cap and PURPA Resources, in each case that are Internal Resources, *multiplied by* (B) the Adjustment Factor; *provided*, that Buyer has arranged to self-supply that portion of the Requirements Portion that is reduced by the Adjustment Factor and to the extent such arranged self-supply does not already reduce the LSE Metered Load.⁶

Section 6.3 Reserved.

Section 6.4 Monthly Energy Charge.

The “**Seller Monthly Energy Charge**” for a Month shall be equal to the sum of the Monthly Fuel Charge and Monthly Variable O&M Charge for the Month.

(a) Monthly Fuel Charge. The “**Monthly Fuel Charge**” for a Month shall be equal to the sum of the Hourly Fuel Charges and the Fuel Adjustment Charge. The “**Hourly Fuel Charge**” for an Hour shall be equal to the product of (i) the quantity of energy delivered by

⁶ Buyer needs explanation of how the proviso drafted by Seller would be implemented.

Seller (in kWh), and (ii) the Fuel Rate for the Month (in \$/kWh). During the Rate Freeze, the Fuel Rate shall be \$0.02538/kWh; *provided*, the Fuel Rate shall be adjusted (i) to reflect an increase of \$0.000175/kWh for every 1.0% loss in total energy output from Seller Demand as measured in MWh in the prior year that is attributable to Other Wholesale Customers that discontinue their power supply arrangements with Santee Cooper on or before the Effective Date and do not take comparable service from Seller at such time that the Fuel Rate is assessed, and (ii) as shown in Appendix E to reflect (x) changes in the NYMEX-based forward curve for natural gas between January 27, 2020 and the Commencement Date, and (y) changes in the forecasted coal price and forecasted rail rate between January 27, 2020 and the Commencement Date.⁷ After the Rate Freeze, the Fuel Rate for each Month shall be the rate determined on line 14 of the attachment labeled “A-2 WP Monthly Energy Charges” of the Formula Rate (the “**Fuel Rate**”), which shall be forecasted each Year as provided in Section 6.9 and subject to true up on a Monthly basis through the Fuel Adjustment Charge. Any difference between the sum of the estimated Hourly Fuel Charges and the sum of the actual Hourly Fuel Charges based on actual fuel costs shall be billed or credited to Buyer through the “**Fuel Adjustment Charge**” on the first bill rendered after such actual fuel costs have been determined. If the Fuel Adjustment Charge is positive, such amount shall be billed to Buyer and if the Fuel Adjustment Charge is negative, such amount shall be credited to Buyer. The amount to be billed or credited for any over-collections or under-collections based on such estimates versus actual costs shall include interest accrued in a manner consistent with the FERC Interest Regulation. Fuel Adjustment Charges shall always be based on Seller’s actual costs for fuel and purchased power. For the avoidance of the doubt, the Fuel Adjustment Charge shall be zero during the Rate Freeze.

(b) Monthly Variable O&M Charge. The “**Monthly Variable O&M Charge**” for a Month shall be equal to the sum of the Hourly Variable O&M Charges for the Month. The “**Hourly Variable O&M Charge**” for an Hour shall be equal to the product of (i) the quantity of energy delivered by Seller (in kWh) and (ii) the Variable O&M Rate for the Year (in \$/kWh). During the Rate Freeze, the Variable O&M Rate shall be \$0.00489/kWh. After the Rate Freeze, the Variable O&M Rate shall be the rate determined on line 20 of Schedule A-2 of the Formula Rate, and shall be subject to true-up as set forth in Section 6.9.

Section 6.5 Assignment of GHG Emission Allowances and Credits.

In the event that any LSE receives an allocation of GHG emission allowances or credits under Law based on such LSE’s retail electric service load, Seller may acquire, to the extent permitted by Law, such allowances and credits from LSE as may be negotiated with the respective LSE or with Buyer on behalf of the LSE.

Section 6.6 Single Issue Rate Changes During the Rate Freeze.

Consistent with the rider provisions authorized in the Enabling Legislation with respect to Seller Native Load, Seller may submit a single issue filing under Section 205 of the Federal Power Act that seeks to recover, through a rate rider, costs related to (a) storm losses, (b) changes in tax rates, or (c) changes in Law, each subject to FERC authorizing the recovery of

⁷ The fuel charge for all customers (including Buyer) will be adjusted for changes in interest rates between January 27, 2020, and the Effective Date in a manner consistent with Appendix J.

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such expenditures pursuant to this Section 6.6, in each case only to the extent the cost or the magnitude of the cost was not reasonably foreseeable as of the Effective Date. The sole issue in any such proceeding shall be the justness and reasonableness of the proposed rate rider, and neither Party shall seek changes to the Monthly Demand Charge or Monthly Energy Charge applicable during the Rate Freeze. Seller shall not be entitled to recover any costs pursuant to this Section 6.6 for which proportionate recovery from Seller's retail customers has not been requested by Seller to be included in such customers' rates, has been disallowed or is subsequently disallowed by the PSCSC; *provided*, Buyer shall not, and shall use Commercially Reasonable Efforts to cause the LSEs not to, directly or indirectly, seek or support such disallowance.

Section 6.7 Deferral of Unforeseen or Unavoidable Costs During the Rate Freeze.

Consistent with the deferral provisions authorized in the Enabling Legislation with respect to Seller Native Load, Seller may establish one or more regulatory assets during the Rate Freeze for the purpose of deferring for future recovery cost increases that are (a) outside of Seller's or Seller's Affiliates control and related to (i) significant events leading to state emergency declarations, including storms, sabotage or other attacks, (ii) significant cyber security or security attacks, (b) related to (i) gypsum contracts, in excess of amounts forecasted for such matters as set forth in Appendix I or (ii) the net book value of unrecovered investment due to retirement or dismantling of the Cross and Winyah generating units, or (c) due to a change in Law, including with respect to coal combustion residuals. Seller must make a single issue filing under Section 205 of the Federal Power Act to demonstrate that the deferred costs are just and reasonable before including such costs in the Formula Rate after the Rate Freeze. The sole issue in any such proceeding shall be the justness and reasonableness of the deferred costs that Seller seeks to recover. Seller shall not be entitled to recover any deferred costs through the Formula Rate pursuant to this Section 6.7 for which proportionate recovery from Seller Native Load has not been requested by Seller to be included in customers' rates, has been disallowed or is subsequently disallowed by the PSCSC; *provided*, Buyer shall not, and shall use Commercially Reasonable Efforts to cause the LSEs not to, directly or indirectly, seek or support such disallowance.

Section 6.8 Customer Refund; Wind-Down Escrow Fund Disbursements.

During the first twelve (12) Months of service under this Agreement, Seller shall apply bill credits corresponding to Buyer's allocated share, as determined by the PSCSC, of the aggregate customer refund of \$541 million and the additional refund of [\$400 million] stipulated in the Enabling Legislation; *provided*, Buyer may elect, by prior written notice to Seller, to receive cash (\$) in lieu of bill credits.

Section 6.9 Annual Projections and True-Up of Formulaic Rates.

(a) For service provided after the Rate Freeze, the Monthly Demand Rate and the Monthly Variable O&M Charge ("**Formulaic Rates**") shall be estimated by populating the Formula Rate with forecasted data prior to the Year in which service is provided and trued-up by populating the Formula Rate with actual cost data from Seller's FERC Form No. 1 for the Year once such data becomes available pursuant to the provisions of this Section 6.9.

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(b) The Formulaic Rates and the Fuel Rate shall be determined by populating the Formula Rate with Seller's forecast data for the ensuing Year. Seller shall provide Buyer with such populated Formula Rate no later than September 1 preceding the Year in which service will be provided.

(c) Because the Formulaic Rates initially collected during the Year are based on Seller's forecasted cost data, the Formulaic Rates shall be adjusted (or "trued-up") based upon (i) FERC Form No. 1 cost data from the Year in which the service was provided, and (ii) the actual costs or other amounts as identified in the Formula Rate set forth in Appendix A hereto. The true-up amount for each Formulaic Rate is the difference between the charges assessed to Buyer utilizing the forecasted Formulaic Rate during the Year in which service was provided and the charges that would have been assessed to Buyer using Formulaic Rate calculated using actual cost data for the same Year. The true-up data shall be provided to Buyer no later than July 1 following the Year in which service was provided, and Buyer shall have review and challenge rights as provided in Section 6.10. True-up amounts, with interest computed consistent with the FERC Interest Regulation, shall be reflected in the Formulaic Rates charged to Buyer two years after the Year in which service was provided in the manner provided for in the Formula Rate. For example, the "true-up" of Formulaic Rates initially collected for service provided during 2025 shall be computed by Seller and provided to Buyer by July 1, 2026, and reflected in the Formulaic Rates charged to Buyer for service provided during 2027. Following the expiration or early termination of this Agreement, the provisions of this Section 6.9 and Section 6.10 shall survive to the extent necessary to allow for the true-up and Buyer review of Formulaic Rates charged during the Term, and any true-up amount shall be settled *pro rata* over two years following the expiration or early termination of this Agreement.

Section 6.10 Formula Rate Review Process.

(a) The following information shall be provided to Buyer by Seller on or before July 1 of each Year following the Year in which Formulaic Rates are first charged to Buyer pursuant to this Article 6 (i) Seller's FERC Form No. 1 Report for the Year in which the service was provided, (ii) the calculation of the trued-up Formulaic Rates, and (iii) work papers showing the source of all data utilized in the calculations and any other supporting documentation. The accuracy of Seller's calculations, as well as the data used in those calculations (including FERC Form No. 1 data), shall be subject to review and adjustment only in accordance with the following procedure:

(i) Buyer shall have until October 31 of the same Year to review the information provided by Seller. During that time Buyer may ask Seller questions, including questions on application of the Formula Rate in Appendix A, the accuracy of the data used in Appendix A, the prudence of actual costs and expenditures, and the consistency of the calculations with what is required by this Agreement ("**Formula Rate Challenge Issues**"). Seller shall make a good faith effort to respond to such questions within ten (10) Business Days.

(ii) If Seller and Buyer do not resolve any dispute that may arise as to one or more Formula Rate Challenge Issues by November 30 of the same Year, Buyer is then permitted to file a complaint at FERC regarding any one or more such Formula Rate Challenge Issues.

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(iii) Seller agrees to bear the burden of proof regarding these matters in any such complaint proceeding. Any refund obligation will extend for the entire Year that is the subject of review as a result of the complaint proceeding, with Seller having no right to seek suspension of the refund effective date.

(b) Without limiting the audit rights set forth in Section 10.4, the Formulaic Rate charges collected by Seller under this Agreement for any particular Year in which service is provided shall become final and not subject to adjustment on the latest of (i) October 31 of the same Year in which the FERC Form No. 1 Report for the preceding Year is provided during the Term of this Agreement, if at such time, there has been no complaint filed at FERC under Section 6.10(a), (ii) the final resolution of any complaint filed pursuant to Section 6.10(a), or (iii) the day any required corrections have been made by Seller. Seller shall make any necessary corrections required pursuant to Section 6.10(a) as soon as possible.

Section 6.11 Basis for Modification to Rate Formulas.

It is intended that the Formula Rate includes all costs incurred by Seller to own, operate and maintain Seller Generation System, exercising Good Utility Practice, including costs incurred to avoid or reduce such costs. Throughout the Term, neither Seller nor Buyer shall have the right to seek from FERC any unilateral modification of the Formula Rate, except as follows. Either Seller or Buyer shall have the right to:

- (a) change the return on equity set forth on line 3 of Schedule A-9 of the Formula Rate,
- (b) change the depreciation rates or nuclear decommissioning accrual used in Schedule A-7.1 of the Formula Rate,
- (c) include additional cost items that are at that time incurred due to change in Law or regulation, including with respect to RPS Requirements and GHG Costs, to the extent specifically set forth in Section 6.13 and Section 6.14, respectively, but expressly excluding costs associated with a change in Transmission Provider, as set forth in Section 7.3,
- (d) exclude from the Formula Rate cost items that are not at that time incurred in providing capacity and energy to Buyer, including with respect to RPS Requirements and GHG Costs, to the extent specifically set forth in Section 6.13 and Section 6.14, respectively,
- (e) change the Formula Rate to reflect changes in Seller's accounting consistent with FERC's Uniform System of Accounts (including the addition of new accounts and the removal of obsolete accounts),
- (f) change the Formula Rate to include in rate base the cost of construction work in progress,
- (g) change the Formula Rate to allow for the recovery of costs deferred consistent with Section 6.7,

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- (h) either (i) include in the Formula Rate Energy Efficiency Program and DSM Program Costs incurred by Seller that are not included in the Formula Rate, or (ii) change the Formula Rate to reflect the methodology for recovery by Seller of Seller's Energy Efficiency Program and DSM Program Costs that is at that time in effect for Seller's retail ratemaking purposes in South Carolina, including any avoided generation,
- (i) change the Formula Rate to allow for the inclusion of costs that are recoverable by Seller for retail ratemaking purposes in South Carolina or to exclude costs that have either not been requested by Seller to be included in the rates of retail customers or have been disallowed or are subsequently disallowed for recovery by Seller for retail ratemaking purposes in South Carolina, and
- (j) change the Formula Rate to account for revised crediting of revenues associated with non-firm sales by Seller to third-parties.

Additionally, the page, column and line number references to FERC Form No. 1 data in the Formula Rate shall be automatically amended to reflect any changes made by FERC that cause changes in the pagination, columns and line numbers of such FERC Form 1 data references and Seller shall coordinate with Buyer to ensure any necessary filings are submitted pursuant to Section 205 of the Federal Power Act to revise such page, column and line number references in the Formula Rate.

Section 6.12 Process for Modifications to Formula Rate.

If either Seller or Buyer seeks a modification to the Formula Rate under the circumstances expressly permitted under pursuant to Section 6.11, such Party shall first provide the other Party with a written proposal that sets forth the proposed modification and the basis therefor. Thereafter the Parties shall negotiate in an attempt to agree upon a proposed modification and, if the Parties reach agreement on such modification, shall execute and deliver an amendment setting forth the modification. If the Parties fail to reach agreement within sixty (60) Days of the date that the written proposal is provided, either Party may file an application or a complaint with FERC under Section 205 or 206 of the Federal Power Act for the limited purposes of obtaining a determination that the terms of the amendment proposed by such Party are necessary for the Formula Rate to be consistent with such circumstances as provided in Section 6.11 and obtaining an order amending the Formula Rate accordingly. The Parties agree and acknowledge that the standard of review that FERC shall apply when acting on any amendment proposed for any issues identified pursuant to Section 6.11 and subject to this Section 6.12 shall be the "just and reasonable" standard of review rather than the "public interest" standard of review. In the event a Party files an application under Section 205 or 206, the other Party shall have all rights afforded by the Federal Power Act to intervene, comment, protest, and oppose such filing.

Section 6.13 Renewable Energy Costs.

(a) Subject to Section 5.2(g), Buyer shall be entitled to all environmental attributes, value, credits and benefits, including any Renewable Energy Certificates, from capacity or

energy of Renewable Energy Resources utilized to serve Buyer under this Agreement, only to the extent the costs incurred by Seller associated with generating such environmental attributes, credits and benefits are recovered in Buyer's rates.

(b) The Parties shall negotiate in good faith under the procedures set forth in Section 6.12 an amendment to the Formula Rate, to the extent necessary, under which the Buyer will receive the detriment of the higher costs or benefit of lower costs, if any, for Seller's fulfillment of the RPS Compliance Obligations pursuant to Section 5.2(g)(ii). Notwithstanding the foregoing, to the extent any applicable Law giving rise to RPS Compliance Obligations provides for an exemption or provides for more favorable treatment of Buyer than Seller with respect to such RPS Compliance Obligations, then Buyer shall have the right to such exemptions and favorable treatment as such apply.

Section 6.14 GHG Costs.

In the event that Seller becomes subject to a Law which imposes a cost for GHG emissions ("**GHG Costs**") produced by Seller Generation System, either through a tax, a cap and trade regime, or some other protocol, and if such Law provides for either (a) an exemption from GHG Costs to generate energy which is sold to Buyer hereunder, or (b) lower or higher GHG Costs (after taking into account any assignment of GHG emissions allowances or credits under Section 6.5) to generate energy which is sold to Buyer hereunder than the GHG Costs imposed on Seller to generate energy which is sold to Seller's retail customers, then the Parties shall negotiate in good faith under the procedures set forth in Section 6.11 an amendment to the Formula Rate under which the Buyer will receive the benefit of the exemption or lower cost or the detriment of the higher costs.

Section 6.15 Transmission Losses.

For the purpose of calculating energy delivered and demand hereunder, quantities shall be at the generator level, *i.e.*, grossed up for all transmission losses which are incurred between the Seller Delivery Points and the Buyer Delivery Points. The loss factors used in such calculations shall be the Real Power Loss factors as provided for by such Transmission Provider OATTs as may be used by Buyer to move electricity provided under this Agreement from the Seller Delivery Points to the Buyer Delivery Points, as such OATTs may be amended from time to time.

**ARTICLE 7 -
TRANSMISSION, ENERGY IMBALANCE, AND RTO**

Section 7.1 Transmission.

(a) Arrangements. Seller shall be responsible for making all arrangements necessary, and for paying all costs, fees and expenses incurred under contractual arrangements necessary, to transmit the electric energy provided hereunder to the Seller Delivery Points. Buyer shall be responsible for making all arrangements necessary, and for paying all costs, fees and expenses incurred under contractual arrangements necessary, for the transmission of the electric energy provided hereunder at and from the Seller Delivery Points to the Buyer Delivery Points. Except as set forth in this Section 7.1(a), there shall be no reduction in Buyer's payment or performance

obligations under this Agreement as a result of Curtailments, interruptions, or reductions of Transmission Service at and from the Seller Delivery Points to the Buyer Delivery Points, whether as a result of Force Majeure or otherwise. However, in the event that energy to be delivered to Buyer hereunder cannot be delivered because of contingencies or limitations due to Force Majeure, Curtailments, interruptions, or reductions of Transmission Service at and from a Seller Delivery Point to a Buyer Delivery Point for a period greater than ten (10) calendar days, the Monthly Demand Charge specified in Section 6.2 and the Monthly Energy Charge specified in Section 6.4 shall be adjusted to the extent of such limitations.

(b) Delivery Points. In coordination with the Transmission Provider, if necessary and subject to the execution of any necessary agreements, the Parties may mutually agree to add or delete Seller Delivery Points and to make other changes regarding Seller Delivery Points. Nothing shall prohibit Buyer from acquiring or developing additional transmission assets, and Seller will cooperate reasonably with Buyer to adjust Buyer Delivery Points as appropriate to account for such additional transmission assets. Any costs imposed by the Transmission Provider to implement the change in Delivery Points shall be the responsibility of Buyer and not under any circumstances borne by Seller. Whenever there is any change in the Delivery Points, Appendix B automatically shall be amended to reflect such change and, if necessary, be submitted to FERC.

(c) Seller as Transmission Provider. This Agreement does not obligate Seller to provide, pay for, or make arrangements for, any Transmission Services. Notwithstanding any contrary provision set forth in this Agreement, in the event of a failure to perform, breach or default by Seller of any of its obligations in its capacity as the Transmission Provider, such failure, breach or default shall not constitute a failure to perform, breach or default of Seller's obligations under this Agreement. Any liability or obligations of Seller in its capacity as Transmission Provider shall be solely as set forth in any transmission services agreement between Buyer and Transmission Provider or as set forth under the applicable OATT.

(d) Information. Each Party shall provide the other Party access to information the other Party reasonably requests to facilitate the administration of this Agreement with respect to Transmission Providers.

Section 7.2 Energy Imbalance.

Seller shall reimburse Buyer for any Hour in which, as a result of Seller's delivery of an amount of energy less than the Requirements Portion (unless excused under this Agreement), Energy Imbalance Service charges are incurred by Buyer in accordance with an OATT. Buyer shall reimburse Seller for any Hour in which, as a result of Seller's delivery of an amount of energy in excess of the Requirements Portion, Energy Imbalance Service compensation is provided to Buyer in accordance with an OATT.

Section 7.3 Regional Transmission Organization.

(a) Change in Transmission Provider. If an ISO, RTO, ITC, or other future organization, agency or authority is approved by FERC to serve as the Transmission Provider for the Seller's Transmission System, then Seller and Buyer will cooperate reasonably to make or

enter into arrangements with such entity to assist such entity with the implementation of this Agreement. The Parties shall use Commercially Reasonable Efforts to cooperate and identify the best approach to respond to a change in Transmission Provider to an ISO, RTO, ITC, or other future organization, agency or authority. It is expressly understood that neither the implementation by FERC of an ISO, RTO, ITC or other future organization, agency or authority to serve as the Transmission Provider, nor the failure of the Parties to enter into the arrangements contemplated under this Section 7.3 shall relieve either Party of any obligations under this Agreement.

(b) Cost Responsibility. It is expressly understood that nothing herein shall be construed to in any way relieve Buyer of, or impose upon Seller, the responsibility for any fees, costs, or charges (including congestion costs, transmission losses, or the costs or charges to secure financial transmission rights or the equivalent thereof) that may be imposed on Buyer by an ISO, RTO, ITC, or other future organization, agency or authority that has been approved by FERC to serve as the Transmission Provider in connection with the provision of Transmission Service. It is further expressly understood that neither Party shall have any right or interest in any financial transmission rights, congestion revenue rights, or other financial rights to firm transmission as may be defined or authorized by regulatory authority that are allocated, assigned, transferred or acquired by the other Party.

(c) Congestion Costs. In the event that a Transmission Provider implements a pricing methodology that allocates congestion costs on a locational basis, in determining the dispatch order of Seller Generation System, Seller shall make no adverse distinction between Seller Native Load and Seller's obligations to supply capacity and energy under this Agreement. Seller further agrees that, in the event the Parties agree to new Seller Delivery Points for the Seller Generation System, Seller shall make no adverse distinction between Seller Native Load and Seller's obligations to supply capacity and energy under this Agreement.

ARTICLE 8 - OPERATING COMMITTEE; RESOURCE PLANS

Section 8.1 Operating Committee.

(a) Establishment; Meetings. The Parties shall establish an Operating Committee consisting of four (4) Representatives, with two (2) Representatives from each of the Buyer and the Seller. Each Party shall designate its respective Representatives to the Operating Committee, plus an alternate, by written notice delivered in accordance with Section 13.22 within thirty (30) Days after the Effective Date. Buyer and Seller may each designate a replacement Representative by delivering written notice at least three (3) Days before the intended effective date for such designation. The Operating Committee shall meet initially prior to the Commencement Date, and thereafter at minimum on a quarterly basis. Minutes from each meeting of the Operating Committee shall be kept, which minutes shall be delivered to each of the Representatives on the Operating Committee by a designated attendee. The Parties agree to keep confidential any information from the meetings of the Operating Committee, including minutes, presentations or other supplemental materials, subject to the confidentiality provisions set forth in Section 13.7.

(b) Duties of the Operating Committee.

(i) Coordination; Operating Procedures; Seller. Consistent with the requirements of this Agreement, the Operating Committee shall be responsible for the coordination and interaction between the Parties with respect to the Parties' performance under this Agreement, including: communications; operations-center interface; metering, telecommunications and data acquisition procedures; Delivery Points, Dynamic Signals, Demarcation Points and scheduling; adoption, implementation, and maintenance of the emergency load curtailment program; procedures for sharing information regarding generation resource planning to further implement the provisions of Section 8.1(b)(ii); and such other matters as may be mutually agreed upon by the Parties. The Operating Committee shall develop mutually agreeable written Operating Procedures consistent with the requirements of this Agreement with respect to matters mutually agreed to by the Representatives, which may include additional procedures regarding any "Opt-out" elected by Buyer consistent with this Article 8. Seller's Representatives on the Operating Committee (and Seller), shall consider in good faith the input of Buyer's Representatives on the Operating Committee (and Buyer), with respect to such coordination and interaction matters; *provided*, Seller shall determine, in its sole discretion consistent with Good Utility Practice, how it will act with respect to technical, day-to-day operational and other matters relating to its performance of its obligations under this Agreement and shall be solely responsible for the same.

(ii) Reserve Margin. The Operating Committee shall establish from time to time the Installed Capacity Reserve Margin and the Planning Reserve Requirement that the Combined System is to be planned (at the time such planning is performed) to achieve in the future. Such amounts shall be determined and approved (A) by unanimous vote of the Operating Committee or (B) if the Operating Committee holds a vote after deliberation and good faith efforts to reach agreement and yet fails to approve unanimously the amounts, by Seller. In either case, the Planning Reserve Requirement shall be determined in accordance with Good Utility Practice or as otherwise required by a Governmental Entity with authority to require Seller or Buyer to maintain or to enforce such a minimum Installed Capacity Reserve Margin.

(iii) Resource Coordination; Generation Resource Planning. Excluding Resources covered in Section 8.1(b)(iv) for which Seller is not required to obtain PSCSC approval of need, it is the intent of the Parties to cooperate and coordinate in the planning of future Resources to be included as part of the Seller Generation System.

(A) The Representatives to the Operating Committee will coordinate and share information with respect to generation resource planning (excluding Resources covered in Section 8.1(b)(iv)) for which Seller is not required to obtain PSCSC approval of need), including with respect to such Resources LSE Native Load and system load forecasts, retirement and decommissioning of existing Resources in the Seller Generation System; modification of existing Resources in the Seller Generation System; expansions to the Seller Generation System; SEPA Entitlement, Existing Generation, PURPA Resources and Permitted Additional Resources; and, to the extent known by Buyer, LSE DSM Program, LSE Time of Use Rate, and LSE Energy Efficiency Program.

(B) Seller's Representatives on the Operating Committee (and Seller) shall submit to Buyer's Representatives on the Operating Committee (and Buyer) generation planning information in its possession or control which is material to the consideration or development of new or modified Resources (excluding Resources covered in Section 8.1(b)(iv) for which Seller is not required to obtain PSCSC approval of need), including with respect to such Resources and to the extent so material, (x) Seller's integrated resource plan that is required to be filed by the PSCSC, (y) any sensitivity analyses (if applicable) or cost and other information regarding alternatives supporting such filing, and (z) the information set forth in Section 8.1(c) below. With respect to any new or modified Resources, Seller shall submit information as far in advance as reasonably practicable, but in no event less than sixty (60) Days in advance of making any final generation resource planning decisions, publishing an initial public announcement regarding any new or modified resource, or submitting an application for federal or state regulatory approval with respect to any new or modified resource (the "**Submission Date**"). Seller will regularly take the input of Buyer's Representatives on the Operating Committee (and Buyer) on generation resource planning, and give good faith consideration to pertinent input received from the Buyer's Representatives. If, after Buyer's input and discussion and Representatives attempting to reach consensus for a period of at least sixty (60) days after the Submission Date, the members of the Operating Committee cannot agree on a resource planning decision, Seller shall, in its sole discretion, take any actions it deems necessary to maintain the Seller Generation System and to place in-service any additional, new or modified generation resources deemed necessary by Seller to serve the Requirements Portion, subject to each of the following:

- (1) Receipt of approvals required by applicable Law.
- (2) Good Utility Practice.
- (3) For any generation resource not included in the Initial Generation Resource Plan, Seller shall provide to Buyer a "benchmark analysis" of (i) Seller's anticipated cost (per kW) of its proposed generation resource, *against* (ii) the cost (per kW) of the last ten (10) utility generation new builds of similar technology that are publicly available or were developed by Seller or its Affiliates. The benchmark analysis must confirm that Seller's proposed generation resource is in the top quartile of cost (per kW) and efficiency (e.g., "baseload," "minimum" or "part-load" heat rate, as may be relevant to the expected operating profile of the Resource) among the comparisons provided.
- (4) A prohibition on Seller's procurement or development of new coal-combustion electric generation facilities (including any Major Resource Modification to such coal-combustion electric generation facilities) to serve the Requirements Portion (or any obligations on Buyer or the LSEs related to such coal-combustion electric generation facilities), unless expressly authorized by Buyer.
- (5) A prohibition on Seller's procurement or development of nuclear generation facilities to serve the Requirements Portion (or any obligations on Buyer or the LSEs related to such facilities), excluding uprates to existing nuclear facilities, unless expressly authorized by Buyer.

(6) The provisions of Section 8.2.

(iv) Initial Generation Plan. Buyer and Seller acknowledge and agree that Seller intends to implement the Initial Generation Resource Plan and that (A) the costs associated with the generation resources placed in-service, to the extent so placed in-service in accordance with the Enabling Legislation, will be included in the Monthly Demand Charge and the Monthly Energy Charge in the Formula Rate to be effective at the end of the Rate Freeze, (B) such costs shall be subject to and shall not exceed the any cost caps set forth in the Enabling Legislation that are applicable to such generation resources, (C) to the extent that Seller elects to replace or substitute any such generation resources, such replacement or substitution will be subject to any cost caps and other approvals set forth in the Enabling Legislation that are applicable thereto. Notwithstanding anything to the contrary in this Agreement, Seller acknowledges and agrees that, in the event (X) Seller commences construction or other acquisition of a generation resource incorporated as part of the Initial Generation Resource Plan, and (Y) such generation is abandoned, not completed or fails to be placed in-service (an “**Abandoned Resource**”), then Seller shall not include the costs of such Abandoned Resource into the Monthly Demand Charge and the Monthly Energy Charge in the Formula Rate. Seller further acknowledges that nothing in this Section shall diminish any rights Buyer may have before the PSCSC or FERC or under any applicable Law.

(c) Information Regarding Resource Plans.

(i) Seller’s Responsibilities. To the extent not otherwise provided, Seller shall provide to Buyer through the Operating Committee reasonably requested operating, cost and other information pertaining to any Resource being materially considered, to serve the Requirements Portion (excluding Resources covered in Section 8.1(b)(iv) for which Seller is not required to obtain PSCSC approval of need), including capital and operating costs, the projected useful life, permitting status, operational information and fuel supply information and projections, interconnection and transmission information (except to the extent that access to or disclosure of such interconnection and transmission information is prohibited by applicable Law), timing, availability, dispatchability, and cost of service study (“**Seller’s Requested Resource Information**”).

(ii) Buyer’s Responsibilities. Buyer shall provide to Seller through the Operating Committee information in its possession or control which is material to the generation expansion planning process, including information related to PURPA Resources, Existing Generation, Permitted Additional Resources, RPS Compliance Resources, Excluded Resources and Program Resources (e.g., installations and aggregate nameplate capacity by installation year), alternative Resources Buyer would like Seller to consider for serving the Requirements Portion, any sensitivity and risk analyses, cost and other information regarding alternatives and financial analysis (“**Buyer’s Requested Resource Information**”).

The Parties agree to (a) treat as confidential any Seller’s Requested Resource Information, Buyer’s Requested Resource Information and other information furnished by either Party pursuant to this Section 8.1 in accordance with the provisions set forth in Section 13.7 and (b) not use such information that is marked as “confidential” in any proceeding; *provided*, that, to the extent Buyer obtains such information in the ordinary course of discovery in a regulatory or

court proceeding without using, directly or indirectly, such information previously obtained from Seller pursuant to this Section 8.1 as a basis for the underlying discovery request, Buyer may use such information to the extent permitted by the Governmental Authority administering such proceeding.

Section 8.2 Buyer Opt-Out Election.

(a) Commencing on January 1, 2035, following Operating Committee consideration of a resource planning decision related to a Major Resource proposed by Seller to serve the Requirements Portion (a “**Proposed Resource**”), Seller shall promptly notify Buyer of any decision of the Operating Committee (or of Seller, if the Operating Committee cannot agree in accordance with Section 8.1(b)(iii)(2)) to proceed with a Proposed Resource. Within sixty (60) Days of receipt by Buyer of such notice, Buyer shall provide Seller with written notice (a “**Resource Commitment Notice**”) whether Buyer elects to participate in or “opt-out” of the Proposed Resource. If Buyer fails to provide a Resource Commitment Notice within the applicable time period, Buyer shall be deemed to have elected not to participate in the Proposed Resource (an election not to participate or failure to timely elect to participate shall be an “**Opt-Out Election**”). For the avoidance of doubt, Buyer shall not have an Opt-Out Election with respect to any Resource that has been previously completed or is under construction as of January 1, 2035, but shall have an Opt-Out Election with respect to any Proposed Resource that is not yet under construction as of January 1, 2035. After January 1, 2035, Seller shall not include any costs or charges relating to a Proposed Resource that is not completed or under construction as of January 1, 2035, in the Monthly Demand Charge or the Monthly Energy Charge in the Formula Rate unless such Proposed Resource is also a Shared Resource.

(b) Seller Approval. Within thirty (30) Days after Buyer delivers a Resource Commitment Notice electing to participate in the Proposed Resource, Seller shall notify Buyer whether Seller will proceed with the Proposed Resource (a “**Confirmation Notice**”). If Seller timely notifies Buyer that it will proceed, the Proposed Resource shall become a “**Shared Resource**”. If Seller does not so notify Buyer, then Seller will not proceed with the Proposed Resource, and any subsequent development or acquisition of the Proposed Resource will constitute a new Proposed Resource.

(c) Acquisition of Shared Resources. If Seller proceeds with the Proposed Resource in accordance with Section 8.2(b), then Seller shall use Commercially Reasonable Efforts to develop or acquire such Proposed Resource in accordance with the proposed parameters for the Proposed Resource. Seller shall, through the Operating Committee, provide Buyer with regular updates on the process of developing or acquiring (or modifying or canceling) any Shared Resource. Prior to any modification or cancellation, Seller shall take the input of the Operating Committee as set forth in Section 8.1(b)(iii). Subject to the foregoing, Seller may modify or cancel such Shared Resource to account for unforeseen circumstances. Any change to a Proposed Resource after delivery of a Resource Commitment Notice but before commercial operation that would satisfy the standards for a Major Resource Modification shall constitute a new Proposed Resource.

Section 8.3 The Parties’ Obligations Following Buyer Opt-Out Election.

If Buyer makes an Opt-Out Election, this Section 8.3 shall apply.

(a) Non-Shared Resource Information. Within one hundred eighty (180) days following an Opt-Out Election, each Party shall provide the other Party with as much detailed information as reasonably practicable describing its prospective Non-Shared Resource, including information concerning how each Party will satisfy its obligations with respect to Non-Shared Resources but excluding fixed cost information. As each Party obtains additional associated information, it shall promptly provide this information to the other Party through the Operating Committee. The Parties agree to keep confidential any Non-Shared Resource Information, subject to the confidentiality provisions set forth in Section 13.7.

(b) Capacity of Non-Shared Resources.

(i) Each of Buyer and Seller must provide, from and after the New Resource Date, a Non-Shared Resource that provides Net Dependable Capacity at least equal to its projected Load Ratio Share (averaged over the first five (5) Years following the New Resource Date) of the capacity requirements which were to be served by the Proposed Resource in each Year following the New Resource Date (each Party's "**Annual Required Capacity Amount**").

(A) In addition to the Annual Required Capacity Amount, each of Buyer and Seller must provide one or more Non-Shared Resources that provides other capabilities, which may include voltage support/reactive power, operating reserves, load following, black start and other capabilities necessary to operate Combined System, substantially similar to its projected Load Ratio Share (averaged over the first five Years following the New Resource Date) of the capability requirements of the Combined System which were to be served by the Proposed Resource in each Year following the New Resource Date (each Party's "**Annual Required Capabilities Amount**"). Collectively, the Annual Required Capacity Amount and the Annual Required Capabilities Amount shall be referred to as the "**Annual Required Amounts**".

(B) To the extent the Parties' obligation to provide a Non-Shared Resource is based on a Proposed Resource that was proposed to be a Firm Purchase, then the Annual Required Capacity Amount associated with such Proposed Resource shall be increased by multiplying such Annual Required Capacity Amount by the sum of one (1.0) plus the Planning Reserve Requirement in effect at the time of the Opt-Out Election.

(C) If a Party elects to satisfy some or all of its obligations to provide the Annual Required Capacity Amount by entering into a Firm Purchase, then such Firm Purchase shall count towards meeting the Annual Required Capacity Amount based on the product of the amount of capacity available pursuant to such Firm Purchase multiplied by the sum of one (1.0) plus the Planning Reserve Requirement in effect at the time of the Opt-Out Election.

(ii) Such Annual Required Amounts shall be established by reference to the Seller's resource plan that recommends acquisition or consideration of the rejected Proposed Resource, and shall be determined and fixed at the time of the Opt-Out Election. From and after such time as the total of the Annual Required Capacity Amount first equals amount of capacity that would have been provided by the Proposed Resource, each Party's Annual Required

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Capacity Amount shall thereafter equal the Party's Load Ratio Share (averaged over the first five Years following the New Resource Date) of the Net Dependable Capacity of the Proposed Resource.

(iii) Each Party's obligations to provide such Annual Required Amounts may be satisfied by one or more Non-Shared Resources. Each Party must acquire Non-Shared Resources to meet such Annual Required Amounts either on or before the New Resource Date or after such New Resource Date; provided, that such Party will then bear the risk and expense associated with not providing enough capacity or other capabilities to meet the needs of the Combined System up to such Party's Annual Required Amounts, including the risk of curtailment. Furthermore, each Party may elect to supply or have such other Annual Required Amounts supplied pursuant to suitable contractual arrangements. Once Buyer has made an Opt-Out Election, Buyer and Seller shall thereafter have the right and obligation to provide the Annual Required Amounts for the remaining Term (regardless of whether the term or projected useful life of the Proposed Resource was less than the remainder of the Term).

(iv) The Net Dependable Capacity of a Non-Shared Resource shall not exceed for a given Year the greater of (A) 110% of a Party's Load Ratio Share of the Proposed Resource that was the subject of the applicable Opt-Out Election and (B) 100 MW plus 125% of a Party's Annual Required Capacity Amount. The Net Dependable Capacity of a Non-Shared Resource shall be determined net of any capacity committed pursuant to any Own Account Sales.

(v) The connection of or reliance on each Non-Shared Resource must not compromise the security or integrity of the Combined System. Each Party shall have the right to determine the term of a power purchase or the useful life of any Resource that is to be such Party's Non-Shared Resource.

(vi) Notwithstanding the foregoing in this Section 8.3, if a Proposed Resource is a Major Resource Modification, then the following provisions apply:

(A) For increases in the Net Dependable Capacity of a generating unit for which an Opt-Out Election is made, Seller may elect to complete such Major Resource Modification and in such event (1) Buyer must acquire a Non-Shared Resource with a Net Dependable Capacity determined in accordance with Section 8.3(b)(i) and (2) the Operating Committee shall determine by unanimous vote, or in the absence of unanimity Seller shall reasonably and fairly determine, how to allocate variable costs associated with the increased Net Dependable Capacity as compared to the Resource as a whole.

(B) For extensions of a Resource's useful life or extensions of the term of a power purchase agreement for which an Opt-Out Election is made, Seller may extend such Resource's useful life or the term of the power purchase agreement and in such event (1) the New Resource Date for Buyer's Non-Shared Resources shall be day one of such extended useful life or extended term at which point the resource shall become a Seller Non-Shared Resource (2) the Operating Committee shall determine by unanimous vote, or in the absence of unanimity Seller shall reasonably and fairly continue to allocate to Buyer and Seller shares of all unavoidable costs of the Resource, excluding the costs relating to the Major Resource

Modification that was the subject of the Opt-Out Election and (3) Buyer must acquire a Non-Shared Resource with Net Dependable Capacity determined in accordance with Section 8.3(b)(i).

(C) For proposed Major Resource Modifications to the extent not already covered by subparts (A) and (B) above and for which an Opt-Out Election is made, Seller may make modifications to such Resource and in such event the Operating Committee shall determine by unanimous vote, or in the absence of unanimity Seller shall reasonably and fairly allocate, the Net Dependable Capacity and other capabilities of such modified Resource and the fixed and variable costs so as to hold Buyer harmless from any costs associated with the improvements, provided that Buyer shall not be entitled to any of the benefits associated with the improvements, including operating efficiencies and costs resulting from the modifications.

(c) Delivery of Non-Shared Resources by the New Resource Date. Each Party shall use Commercially Reasonable Efforts to acquire its Non-Shared Resources; *provided, however*, if and when a Party reasonably determines in accordance with Good Utility Practice that it will be unable to acquire its Non-Shared Resource by the New Resource Date, it shall use Commercially Reasonable Efforts to acquire temporary or alternative Non-Shared Resources. All requirements to acquire a Non-Shared Resource by the New Resource Date in this Section 8.3(c) are limited to the Annual Required Amounts even if the capacity and capabilities of the Non-Shared Resource are greater than such Annual Required Amounts. Each Party's remedies as the result of the other Party failing to acquire Non-Shared Resources by the New Resource Date are exclusively limited to the express remedies provided in this Section 8.3(c).

(i) On an annual basis as part of the resource planning process, the Operating Committee shall review each New Resource Date and the corresponding Annual Required Amounts. The Operating Committee may extend the New Resource Date to a later date or decrease the Annual Required Capacity Amounts or the Annual Required Capabilities Amounts, which shall become the New Resource Date and/or the new Annual Required Capacity Amounts or Annual Required Capability Amounts, as applicable. All such decisions must be made by a unanimous vote of the Operating Committee, and in the event of a split vote, there shall be no change made to the New Resource Date or corresponding Annual Required Capacity Amounts or Annual Required Capabilities Amounts. The Operating Committee cannot advance the New Resource Date to an earlier date or increase the Annual Required Capacity Amounts or Annual Required Capabilities Amounts.

(ii) If a Party's Non-Shared Resource is not available on or before the New Resource Date due to a modification, cancellation or otherwise, such Party, at its sole cost and expense, shall be responsible for alternate arrangements in accordance with Good Utility Practice to satisfy its obligations hereunder until its Non-Shared Resource is available. The Parties are free to waive, in whole or in part, such alternative resource requirement by written waiver signed by both Parties.

(iii) Each Party may in its sole discretion make decisions regarding the substitution of one of its Non-Shared Resources for an alternative Non-Shared Resource from time to time so long as such Party acquires Non-Shared Resources on schedule to meet the New Resource Date and otherwise arranges for capacity and capabilities up to its Annual Required Amounts following the New Resource Date.

(iv) In the event a Party decides to modify or cancel its Non-Shared Resource, that Party shall (A) provide the other Party with written notice of such modification or cancellation as soon as reasonably practicable after such decision is made, (B) include in such notice sufficient information to apprise the other Party of the modified schedule and the alternative arrangements, (C) share other relevant information with, or as reasonably may be requested by, the other Party with respect to any modification, cancellation and/or material delay of, or alternative arrangements for, such Non-Shared Resource, and (D) provide regular updates to the other Party of the status of the Non-Shared Resource development and construction or the alternative arrangements.

(v) If (A) a Party fails to make alternative arrangements and the Non-Shared Resource(s) has not been acquired by the New Resource Date and (B) Seller is nevertheless able to satisfy the minimum Installed Capacity Reserve Margin, then such failing Party shall pay to the other Party an amount equal to then current [Rate] applied to the deficiency that would have resulted from such Party's failure to meet the Planning Reserve Requirements but for Seller's ability to rely on uncommitted excess capacity from such other Party's Non-Shared Resource.⁸

(vi) If (A) a Party fails to make alternative arrangements and the Non-Shared Resource has not been acquired by the New Resource Date and (B) Seller is unable to satisfy the minimum Installed Capacity Reserve Margin, then such failing Party shall pay to the other Party an amount equal to then current [Rate] applied to such deficiency.

(vii) If (A) a Party fails to make alternative arrangements and the Non-Shared Resource has not been acquired by the New Resource Date and (B) Seller is unable to satisfy the operating reserve requirements of the Combined System after taking into account any rights Seller may have under applicable reserve sharing arrangements, then Seller may curtail such failing Party's load to the extent of any such failure and until such failing Party acquires sufficient Non-Shared Resources or makes alternative arrangements.

(viii) Absent a separate contract between the Parties, neither Party shall be obligated to hold or abstain from selling to third parties capacity, energy and ancillary services from its Non-Shared Resources to supply the other Party, including at times when that other Party is deficient in satisfying its obligations associated with a Non-Shared Resource.

(ix) If either Party fails to satisfy its obligations to acquire a Non-Shared Resource or make alternative arrangements as set forth herein, then that Party shall indemnify the other Party from and against any and all third party fees, penalties, fines or other costs associated with or resulting from such failure.

(d) Designated Delivery Point Resources. Instead of acquiring a Non-Shared Resource as a result of an Opt Out Election, Buyer may instead acquire a Non-Shared Resource and designate it to serve all of the load at one or more Designated Delivery Points. As used herein, "**Designated Delivery Points**" shall mean the Delivery Points of Buyer that Buyer designates to be supplied from one or more particular such Non-Shared Resources. Buyer may

⁸ The Parties to agree to an equitable Rate to be applied to a deficiency pursuant to sup-parts (v) and (vi) of this Section 8.3.

exercise this option so long as (i) the aggregate load at such Designated Delivery Points as of the New Resource Date is reasonably projected to be within 90% of the electing Party's Annual Required Capacity Amount and 110% of the electing Party's Load Ratio Share of the rejected Proposed Shared Resource, and (ii) such Non-Pooled Resource is a firm purchase or adequate reserves therefor shall otherwise be supplied for the load at the associated Designated Delivery Points. Such a Non-Shared Resource so designated to serve the load at the Designated Delivery Points shall be referred to as a "**Designated Delivery Point Resource**" and, subject to this Article 8, shall be deemed to satisfy all or such portion of Buyer's Annual Required Capacity Amount equal to the load at the time Buyer elected provide the Non-Shared Resource. Notwithstanding any other provisions of the Agreement, Designated Delivery Point Resources shall not be subject to dispatching by Seller.

(i) Buyer shall be responsible for serving all load, including subsequent load growth, at such Designated Delivery Points even to the extent that such load grows beyond the load at the time such Party elected to convert such Delivery Point or point of delivery to a Designated Delivery Point.

(ii) Seller and Buyer shall reasonably work together electronically to transfer such Designated Delivery Points and the associated load from Seller's Balancing Area to another Balancing Area Operator. Such transfer shall be a condition to the effectiveness of this Designated Delivery Point option. Buyer shall reimburse Seller for all costs reasonably incurred by Seller to make the arrangements described in this Section 8.2(d) and for any metering and telemetry equipment which Seller had purchased and/or installed for the benefit of Buyer associated with service to its Designated Delivery Points.

(iii) Transmission service for Designated Delivery Points of Buyer and Seller shall be provided by Seller in accordance with the terms of Seller's OATT.

(iv) The load at such Designated Delivery Points shall continue to be included for purposes of certain cost allocations under the Agreement, as more specifically set forth in Section 8.4(a).

(v) If any loads served by Buyer's Members that are not at the time Buyer elects to use the Designated Delivery Point option served at or through the Designated Delivery Points are to be shifted to be served at or through the Designated Delivery Points, then Buyer shall notify Seller in advance and at Seller's request, such shifted loads shall not be treated for purposes of this Agreement as though they are loads subject to the Designated Delivery Point option or served by Designated Delivery Point Resources, except to the extent that loads previously subject to the Designated Delivery Point option have been shifted to Delivery Points other than Designated Delivery Points.

(vi) Buyer shall provide Seller with timely information concerning the Designated Delivery Point option, including all information reasonably requested by such other Party.

(e) Applicable Requirements. Each Party must comply with all applicable requirements imposed on it and the Combined System to the extent applicable to that Party by

any Governmental Entity with respect to such Party's Non-Shared Resources and associated capacity, energy, reserves and ancillary services in South Carolina or any part thereof in which Seller or Buyer directly or indirectly provides service to or for the benefit of Seller's customers, Buyer or the LSEs and their respective customers. Seller shall be responsible for meeting the Installed Capacity Reserve Margin, Planning Reserve Requirements and the Operating Reserve Requirements for the Joint Dispatch Pool; *provided*, Buyer contributes Non-Shared Resources up to the Annual Required Amounts.

(f) Dispatch and Scheduling of Non-Shared Resources. All of the capacity from the Shared Resources and all capacity from each Party's Non-Shared Resources (collectively, the "**Joint Dispatch Pool**") must be made available to Seller for economic dispatch to meet the requirements of the Combined System in accordance with the following:

(i) Seller shall schedule and dispatch the Joint Dispatch Pool (A) in accordance with Good Utility Practice, (B) without adverse distinction between Seller's Non-Shared Resources and Buyer's Non-Shared Resources, and (C) consistent with security constrained economic dispatch methodology. To the extent reasonably available, Seller shall provide Buyer with any and all information necessary to confirm that Seller is scheduling and dispatching the Joint Dispatch Pool in accordance with this provision. Notwithstanding the foregoing:

(A) To the extent that the capacity or capabilities of Non-Shared Resources of a Party exceed the Party's Annual Required Capacity Amount or Annual Required Capabilities Amount and the Party has initially entered into Own Account Sales with respect to all or a part of such excess, then Seller shall schedule and dispatch the entire Non-Shared Resource, but the portion dedicated to Own Account Sales will be for the benefit of such transactions and not to meet the requirements of the Combined System, except to the extent Seller's Transmission Provider takes actions under its OATT. The Party engaging in any sales to third parties from such excess capacity shall, at its sole cost and expense, make all necessary transmission arrangements and secure and pay for all necessary services to transmit or otherwise deliver the power and energy in such transactions.

(B) Recognizing that some Resources (including, for example, wind, solar and certain hydroelectric resources) may not be dispatchable or have limited dispatchability and that other Resources (such as purchased power Resources and Resources co-owned by a Party and a third party) may be must-run or subject to dispatch by a third party, such non-dispatchable or limited dispatchability Resources shall be operated and scheduled in accordance with Good Utility Practice.

(ii) The Shared Resources and the full amount of capacity and other capabilities up to the Annual Required Amounts from each Party's Non-Shared Resources, which by virtue of the joint planning process are intended to enable Seller to meet the Operating Reserve Requirement, shall be available to serve the loads of the Combined System. Seller shall be responsible for satisfying the Operating Reserve Requirement with respect to the Joint Dispatch Pool; *provided*, Buyer provides Non-Shared Resources with Net Dependable Capacity and other capabilities of at least the Annual Required Amounts.

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(iii) Resources that a Party acquires to serve Designated Delivery Points shall not be part of the Joint Dispatch Pool. To the extent Buyer engages in such purchases, it shall provide Seller with all information reasonably requested by Seller in order for Seller to plan, schedule, commit and dispatch the other Resources in the Joint Dispatch Pool in accordance with Good Utility Practice.

(iv) Seller and Buyer shall make all arrangements reasonably necessary and in accordance with Good Utility Practice to allow Seller to commit, schedule and dispatch each Non-Shared Resource in the Joint Dispatch Pool. Seller and Buyer shall use Commercially Reasonable Efforts to coordinate any planned outages of such Non-Shared Resources and to take such other actions as may improve the functioning of the Joint Dispatch Pool, including making arrangements for telemetry or other metering necessary for dynamic scheduling, conveying to Seller of real-time generator status information, generator low limits, generator high limits, ramp rates, startup times, minimum run times, minimum down times between starts, limits on starts and other information which in the reasonable judgment of Seller is necessary or useful to schedule, commit and dispatch the Joint Dispatch Pool in accordance with Good Utility Practice. With respect to a Party's Non-Shared Resources, such arrangements and coordination efforts shall be at such Party's sole cost and expense.

(v) As used in this Agreement, dispatching includes operations commonly known in the electric industry as economic dispatching, generation scheduling, and unit commitment.

(g) Further Actions; Documentation. Each Party shall take all reasonable actions, including executing and delivering all documents, cooperating with the other Party and working with third parties, to satisfy each Party's obligations under this Article 8 in accordance with Good Utility Practice.

(h) Interconnection. Each Party shall be responsible at its sole cost and expense for the interconnection of its Non-Shared Resources, including any associated upgrade costs that should be borne by the interconnecting generator pursuant to the provisions of this Agreement, Seller's OATT, to the extent applicable, or any applicable third party OATT.

(i) Remote Non-Shared Resources. Each Party shall be responsible at its sole cost and expense for firm transmission service, ancillary services, losses and any other charges necessary to deliver the capacity and energy to the Combined System from each Non-Shared Resource located outside of the Combined System in an amount equal to or greater than the Annual Required Amounts.

(j) System Improvements. Buyer shall give Seller timely notice of Buyer's intent to acquire each Buyer Non-Shared Resource and regular progress reports so as to allow Seller sufficient time to make such system modifications and reinforcements as may be necessary in order to utilize the capabilities and capacity and to receive the output of each Buyer Non-Shared Resource consistent with the provisions of this Section 8.3 and Seller's OATT, to the extent applicable. No such Non-Shared Resource shall be connected to the Combined System until such necessary system modifications and reinforcements have been made, and, additionally, Seller may require Buyer to provide and install such system protection and control equipment as

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Seller deems appropriate, consistent with Good Utility Practice, to protect the security and integrity of the Combined System. Buyer shall promptly provide Seller with written notice and a detailed description of each Buyer Non-Shared Resource and all information reasonably requested by Seller, including information on the availability and operating characteristics of the Buyer Non-Shared Resource.

Section 8.4 Costs of Non-Shared Resources.

(a) Unless the Parties agree otherwise in writing, the costs of each Party's Non-Shared Resources will not be included in the costs of service included in Buyer's rates or otherwise charged to Buyer under this Agreement; *provided*, to the extent Buyer's Opt-Out Election and introduction of Non-Shared Resources results in incremental costs to Seller that are directly attributable to the management of Buyer's Non-Shared Resources (e.g., joint dispatch, scheduling, management of Buyer's wholesale sales), then such incremental costs shall be included in Buyer's rates.

(b) The provisions of this Section 8.3 shall apply notwithstanding anything to the contrary in the Rate Formula. The Parties will work together to adopt any necessary amendments to the Rate Formula to implement the cost allocations, rates and charges for Shared Resources and Non-Shared Resources as set forth in this Section 8.3.

**ARTICLE 9 -
MODIFICATION OF AGREEMENT**

Section 9.1 Modification; Public Interest Standard.

Except as set forth in Section 6.6, Section 6.7, Section 6.10, Section 6.11 and Section 6.12, (a) any changes, amendment, modification, and/or addendum to this Agreement shall be deemed enforceable if and only if such changes, amendment, modification and/or addendum have been reduced to writing, and duly executed by both Parties in writing, and, if required, approved by the FERC and RUS (either by an affirmative approval by RUS or by the expiration of the 60-day waiting period), and (b) the rates for service specified herein shall remain in effect for the Term and shall not be subject to change through application to FERC pursuant to the provisions of Section 205 of the Federal Power Act absent the agreement of both Parties. In furtherance of the foregoing, each Party hereby irrevocably waives its rights under Sections 205 and or Section 206 of the Federal Power Act to seek from FERC, through complaint, request for investigation, or otherwise, unilateral modification, amendment, or other change to the terms of this Agreement. The Parties expressly agree that, absent agreement and execution by the Parties, the standard of review for any changes proposed by FERC acting *sua sponte* shall be as required by the public interest standard, clarified in *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1 of Snohomish County*, 554 U.S. 527 (2008), and *NRG Power Mktg., LLC v. Me. Pub. Utils. Comm'n*, 558 U.S. 165 (2010), as may be modified during the Term, provided that the standard of review for any modification of this Agreement requested by non-contracting third parties shall be the most stringent standard permissible under then-applicable Law.

**ARTICLE 10 -
BILLING AND PAYMENT**

Section 10.1 Billing Period.

Unless otherwise specifically provided in this Agreement or agreed upon by the Parties in writing, the Month shall be the standard period for determining all billings and payments under this Agreement.

Section 10.2 Billing Statements.

(a) Initial Statements. By the tenth (10th) Business Day after the end of such Billing Period, Seller shall deliver to Buyer a statement setting forth for the Billing Period (i) the sum of the electric energy delivered for all Hours during that Billing Period, and (ii) Seller's calculation of any amounts due from Buyer under this Agreement for the Billing Period. Notwithstanding the foregoing, Seller's failure to render a statement as set forth above shall not relieve Buyer from its obligation to make payment when such statement is rendered; *provided*, such statement is rendered within thirty-six (36) Months after the end of the Billing Period. Subject to Section 10.2(b), Seller may adjust any statement for arithmetic or computational error within thirty-six (36) Months after the date of the original statement.

(b) Subsequent Payment Adjustments. The Parties understand that Monthly billings will need to be made on an estimated basis. In addition, the Parties understand that after-the-fact statements and adjustments to amounts owed may be made in order to reflect correctly the amounts payable by Buyer to Seller under this Agreement (an "**Adjusted Statement**"). Each Party shall cooperate promptly and in good faith with the other Party to obtain the requisite information and perform the necessary computations to true-up or otherwise adjust accurately any estimated or adjusted billings.

(c) Timeliness of Payment. Unless otherwise agreed by the Parties, all statements rendered under this Agreement shall be due and payable by Buyer in accordance with Seller's statement instructions on or before the later of the twentieth (20th) Day of each Month, or the tenth (10th) Day after receipt of the statement or, if such Day is not a Business Day, then on the next Business Day. Buyer shall make payments in immediately available funds by electronic funds transfer, or by other mutually agreeable method, to the account designated in writing by Seller. Any amounts owed not paid by the due date shall be deemed delinquent and shall accrue interest at the Interest Rate, such interest to be calculated from the due date to the date the delinquent amount is paid in full.

(d) Failure of Performance by LSEs. Any failure by any LSE to pay, or to perform any obligation to, Buyer shall not excuse Buyer from any obligation to pay Seller, or perform any other obligation imposed upon Buyer, including those related to the LSEs, under this Agreement.

Section 10.3 Disputes and Adjustments of Statements.

(a) Buyer may, in good faith, dispute the correctness of any statement or any Adjusted Statement, rendered under this Agreement within thirty-six (36) Months following the

date the statement, or Adjusted Statement, was rendered. If a statement or portion thereof, or any other claim or adjustment arising under this Agreement is disputed, Buyer shall provide written notice to Seller (the “**Billing Dispute Notice**”) that (i) states the good faith basis for the dispute, (ii) specifies the amount in dispute (the “**Disputed Amount**”), if any, and (iii) provides documentation reasonably supporting the determination of the Disputed Amount. Buyer shall make payment to Seller of the Disputed Amount under protest and thereafter shall be reimbursed by Seller for any amount determined to be refundable, plus interest at the Interest Rate, after the resolution of such dispute.

(b) In the event that Buyer, by timely notice to Seller, disputes the correctness of a statement or portion thereof, an Adjusted Statement or any other claim or adjustment arising under this Agreement, Seller shall promptly review the disputed statement, Adjusted Statement or adjustment and shall notify Buyer, within forty-five (45) Days following receipt of the Billing Dispute Notice, of the amount of any error or the amount of any payment or reimbursement that Buyer is required to make or is entitled to receive. Reimbursements determined to be due from Seller shall be included on the next Monthly statement, and shall include interest accrued at the Interest Rate from the due date to the date reimbursed. If Buyer disagrees with Seller’s resolution of any dispute, then the Parties shall submit the dispute for resolution in accordance with Article 11.

(c) Inadvertent overpayments and duplicate payment shall be returned promptly by Seller, either upon request by Buyer or identification by Seller, with interest accrued at the Interest Rate from and including the date of receipt of such overpayment but excluding the date repaid by Seller. Any dispute with respect to a statement, an Adjusted Statement or an adjustment is waived unless Seller is notified in accordance with this Section 10.3 within thirty-six (36) Months after the statement or the Adjusted Statement is rendered, or any adjustment to the statement is made. Neither Party shall have the right to challenge any statement, Adjusted Statement or adjustment, or to bring any court or administrative action of any kind questioning the propriety or any other aspect of such statement after a period of thirty-six (36) Months after the date the statement or the Adjusted Statement was rendered, or such adjustment was made.

Section 10.4 Records and Audits.

(a) Seller shall keep records and documents as may be needed to afford a clear and complete history of all transactions under this Agreement, and the cost information used to calculate the charges under this Agreement for a period of thirty-six (36) Months following each Billing Period. During such thirty-six (36) Month period, Buyer shall have the right to audit all such records to the extent reasonably necessary to verify the accuracy of any statement, charge, or computation made pursuant to this Agreement. If Buyer initiates an audit through a written notice to Seller within the time period provided herein, then Seller will retain the records and documents related to such audit until such audit is complete. During such thirty-six (36) Month period, either Buyer, or any third-party representative of Buyer, shall have the right on reasonable prior-written notice, at Buyer’s sole expense and during normal working Hours, to examine the records of Seller, to the extent reasonably necessary to verify the accuracy of any statement, charge, or computation made pursuant to this Agreement. Seller will cooperate reasonably with such audit. Buyer shall pay all costs associated with such audit, including any

independent auditor that it retains, if any, for purposes of an audit conducted under the terms of this Section 10.4.

(b) Seller shall have the right at any time, but no more often than annually, on reasonable prior-written notice, at Seller's sole expense and during normal working Hours, to audit Buyer's books and records with respect to the transactions contemplated under this Agreement.

(c) If any audit or examination under this Section 10.4 reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall accrue interest at the Interest Rate from the date the overpayment or underpayment was made until paid; *provided, however*, that no adjustment for any statement or payment shall be made unless objection to the accuracy thereof was made prior to the lapse of thirty-six (36) Months from the rendition thereof, and thereafter any objection shall be deemed waived.

(d) Any and all information obtained pursuant to an audit will be deemed "Confidential Information" and shall be subject to the confidentiality provisions set forth in Section 13.7.

ARTICLE 11 - DISPUTE RESOLUTION

Section 11.1 Dispute Resolution Process.

Except for those disputes the primary or exclusive jurisdiction over, and the resolution of which, is conferred in either the FERC or the PSCSC or as otherwise specifically provided for herein, any dispute arising out of or relating to this Agreement that cannot be resolved after good faith discussions and negotiations between the Parties as set forth in Section 11.2 may be litigated in accordance with this Article 11; *provided, however*, that any dispute with respect to an invoice shall first be subject to the procedures set forth in Section 10.3 before such dispute may be litigated in accordance with this Article 11.

Section 11.2 Negotiated Resolution.

Prior to initiating litigation hereunder, a Party shall provide the other Party with notice of the dispute, a proposed means for resolving the same, and support for the Party's position ("**Original Notice**"). Thereafter, Representatives of the Parties shall meet in person to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. The Parties agree to provide and exchange supporting facts, records and information regarding the dispute (including calculation and bases) as part of the good faith negotiations. If the Parties have not agreed upon a resolution of the dispute within sixty (60) Days after the provision of the Original Notice or such other time period as the Parties may agree in writing to allow for discussions and negotiation ("**Negotiation Period**"), then each Party shall designate a member of its senior management team, who shall meet in person to discuss the matter and attempt in good faith to reach a negotiated resolution of the dispute. If the senior management Representatives have not agreed upon a resolution of the dispute within thirty (30) Days following expiration of the Negotiation Period, then either Party may provide notice to the other declaring an impasse

(“**Impasse Notice**”), following delivery of an Impasse Notice either Party may proceed with litigation in accordance with the further provisions of this Article 11.

Section 11.3 Submission to Jurisdiction.

Each Party irrevocably agrees that any legal action or proceeding arising out of or relating to this Agreement brought by the other Party or its successors or assigns shall be brought and determined in the United States federal district court sitting in Charleston County, South Carolina, and, if jurisdiction cannot be maintained in that federal district court, then in the State court of South Carolina sitting in Charleston County and each Party hereby irrevocably submits to the exclusive jurisdiction of the aforesaid courts for itself and with respect to its property, generally and unconditionally, with regard to any such action or proceeding arising out of or relating to this Agreement. Each Party agrees not to commence any action, suit, or proceeding relating thereto except in the courts described above in South Carolina, other than actions in any court of competent jurisdiction to enforce any judgment, decree, or award rendered by any such court in South Carolina as described herein. Each Party further agrees that service of any process, summons, notice, or document by U.S. registered mail to the respective addresses set forth herein shall be effective service of process for any action, suit, or proceeding brought against either Party in any such court and the Parties further waive any argument that such service is insufficient. Each of the Parties hereby irrevocably and unconditionally waives, and agrees not to assert, by way of motion or as a defense, counterclaim, or otherwise, in any action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in South Carolina as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment, or otherwise), and (c) that (i) the suit, action, or proceeding in any such court is brought in an inconvenient forum, (ii) the venue of such suit, action, or proceeding is improper, or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

Section 11.4 Waiver of Jury Trial.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR OTHER DOCUMENT EXECUTED OR DELIVERED IN CONNECTION IN HEREWITH, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY.

Section 11.5 Effect of Dispute Resolution Procedures.

The initiation of the dispute resolution procedures under this Article 11 shall not affect the Parties' respective obligations and rights under this Agreement during the pendency of any such procedures.

**ARTICLE 12 -
CREDIT AND COLLATERAL REQUIREMENTS**

Section 12.1 Material Adverse Change.

Buyer shall be deemed to have experienced a material adverse change (“**MAC**”) if, at any time after the Effective Date, it fails to maintain an Investment Grade credit rating. Seller shall be deemed to have experienced a MAC if, at any time at and after the Commencement Date, it fails to maintain an Investment Grade credit rating.

Section 12.2 Notice.

If, at any time after the Effective Date, Buyer or Seller experiences a MAC, then the Party experiencing the MAC shall, within three (3) Business Days of the occurrence of a MAC, notify the other Party in writing of the occurrence of a MAC affecting the notifying Party (a “**MAC Notice**”).

Section 12.3 Posting of Collateral.

To protect either Party against potential default of payment or performance, a Party experiencing a MAC (a “**MAC Party**”) shall post Collateral with the other Party (the “**Secured Party**”) in an amount equal to the highest three (3) Months of Seller’s billings under this Agreement for the previous twelve (12) Months (the “**Collateral Amount**”); *provided*, if such billing amount is not determinable, then the Collateral Amount shall be determined utilizing the highest three (3) Months of Santee Cooper’s billings under the CIA. Such Collateral shall be posted on the Commencement Date or within three (3) Business Days following date on which a MAC Notice is provided, as applicable. The Collateral may be in the form of:

(a) A letter of credit from an Issuer, in a form reasonably acceptable to a Secured Party (“**Letter(s) of Credit**”). Such Letter(s) of Credit must be for a minimum term of three hundred sixty (360) Days. The MAC Party shall give the Secured Party at least twenty (20) Days prior written notice prior to any expiration or earlier termination of the Letter(s) of Credit. The MAC Party shall cause the renewal or extension of the Letter(s) of Credit for additional consecutive terms of three hundred sixty (360) Days or more (or, if shorter, the remainder of the Term) more than twenty (20) Days prior to each expiration date of the Letter(s) of Credit. If the Letter(s) of Credit is not renewed or extended at least twenty (20) Days prior to its expiration date or otherwise is terminated early, the Secured Party shall have the right to draw immediately upon the Letter(s) of Credit and to place the amounts so drawn, at the MAC Party’s cost, in an Escrow Account in accordance with Section 12.3(b), until and unless the MAC Party provides a substitute form of Collateral meeting the requirements of this Section 12.3(a).

(b) Cash deposited in an escrow account (i) with an Issuer under which the Secured Party is designated as beneficiary with sole authority to draft from the account or otherwise access the Collateral, and (ii) established pursuant to an escrow agreement in a form reasonably acceptable to a Secured Party (an “**Escrow Account**”).

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(c) A guaranty, in a form reasonably acceptable to the Secured Party, from a guarantor with a credit rating equivalent to or better than Investment Grade (a “**Guaranty**”) (the items set forth in Section 12.3(a), Section 12.3(b) and this Section 12.3(c), the “**Collateral**”).

Section 12.4 Interest on Cash Used as Collateral.

Any interest earned on Collateral held under an Escrow Account with an Issuer shall be paid to the MAC Party in accordance with the terms of the Escrow Account. If cash is posted, the Secured Party shall pay interest to the MAC Party at the Federal Funds Effective Rate. The “Federal Funds Effective Rate” is the rate for that Day opposite the caption “Federal Funds (Effective)” as set forth in the weekly statistical release designated as H.15(519), or any successor publication published by the Board of Governors of the Federal Reserve System. The MAC Party shall invoice the Secured Party for interest accrued during the previous Month and the Secured Party shall pay such amount within ten (10) Days of receipt of such invoice.

Section 12.5 Continuing Nature of Collateral Requirement.

The MAC Party must continue to post Collateral until the MAC is cured. The Secured Party shall have the right to draw upon, use, and dispose of all Collateral that is posted under Section 12.3, if the MAC Party fails to fulfill any of its payment or performance obligations under this Agreement (including any amounts for which the Secured Party is entitled to indemnification under this Agreement) and such failure constitutes an Event of Default. In the event any Collateral is drawn upon by the Secured Party in accordance with the provisions of this Section 12.5, the MAC Party shall within three (3) Business Days fully replenish the Collateral to the monetary amount required by Section 12.3. A Secured Party’s failure or delay to draw any amount from the Collateral in any instance shall not prejudice the Secured Party’s right to subsequently recover such amount from the Collateral or in any other manner. The MAC Party shall reimburse Secured Party for its direct expenses (including the fees and expenses of counsel) incurred by Secured Party in connection with the preparation, negotiation, execution and/or release (including making a draw of funds) of the Collateral under this Article 12. The Secured Party shall return the unused portion of Collateral to the MAC Party promptly after the later of the following has occurred (a) the Term of the Agreement has ended, and (b) all payment obligations of the MAC Party arising under this Agreement are paid in full.

Section 12.6 Credit Protections.

Either Party (the “**Requesting Party**”) may review the creditworthiness of the other Party (the “**Providing Party**”) on an ongoing basis during the Term. For the duration of this Agreement, each Party will provide the other Party with complete audited financial statements within one hundred eighty (180) Days of the close of their fiscal year; *provided*, if such statements are available from the SEC’s web site or other publicly available web site, this requirement will be deemed to be satisfied. In addition, to the extent Buyer is required to file Form 12 with RUS, Buyer shall provide Seller with a copy of Buyer’s annual RUS Form 12, and any amendments to such Form 12, within thirty (30) Days after the filing of such report or amendment with RUS for the Year in which the Commencement Date occurs and, thereafter, Buyer shall provide such information to Seller during each Year of this Agreement.

**ARTICLE 13 -
ADDITIONAL TERMS**

Section 13.1 Representations, Warranties and Covenants.

(a) Mutual Representations and Warranties. Each Party represents and warrants to the other Party on the Effective Date and the Commencement Date that:

(i) There is not pending or, to its knowledge, threatened against it or any of its Affiliates any Legal Proceeding that could materially adversely affect its ability to perform its obligations under this Agreement.

(ii) No event with respect to it has occurred or is continuing that would constitute an Event of Default, and no such event would occur as a result of its entering into or performing its obligations or circumstances under this Agreement.

(iii) It is acting as principal for its own account and has made its own independent decision to enter into this Agreement.

(iv) It has knowledge and experience in financial matters and in the electric industry that enables it to evaluate the merits and risks of this Agreement, and it is capable of assuming such risks; it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate and proper for it based on its own judgment, is not relying upon the advice or recommendations of the other Party in doing so, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions, and risks of this Agreement.

(v) It has entered into this Agreement in connection with the conduct of its business, and it has the capacity or ability to make or take delivery of all products or services referred to in this Agreement.

(vi) The other Party is not acting as a fiduciary or an advisor with respect to this Agreement.

(vii) It is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it that could result in it being or becoming Bankrupt.

(viii) It is an entity subject to the procedures and substantive provisions of the United States Bankruptcy Code.

(b) Continuing Mutual Representations. Each Party represents and warrants that on each of the Effective Date, the Commencement Date and throughout the Term, it will cause the following to be materially true and correct:

(i) It is duly organized, validly existing and in good standing under the Laws of the state of its incorporation or organization.

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(ii) It has all requisite corporate power to own, operate and lease its properties and carry on its business as contemplated by this Agreement.

(iii) Subject to the conditions precedent provided for in Article 3, it has all lender authorizations and authorizations from Governmental Authorities necessary for it to legally perform its obligations under this Agreement.

(iv) The execution, delivery and performance of this Agreement and any other documentation it is required to deliver under this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents, any contract or other agreement to which it is a party or any Law applicable to it.

(v) The individual(s) executing and delivering this Agreement and any other documentation required to be delivered under this Agreement are duly empowered and authorized to do so at the time of such execution and delivery.

(vi) This Agreement has been duly and validly executed and delivered by such Party and constitutes such Party's legally valid and binding obligation.

(c) Individual Representations. Buyer or Seller, each as indicated, represent and warrant the following to be materially true and correct as of the times indicated:

(i) Subject to the conditions precedent provided for in Article 3, as of the Effective Date, Seller is fully authorized to sell and deliver the capacity and energy under this Agreement at the rates and terms contemplated by this Agreement.

(ii) Subject to the conditions precedent provided for in Article 3, as of the Effective Date, Buyer is fully authorized to purchase and receive the capacity and energy under this Agreement at the rates and terms contemplated by this Agreement.

(iii) As of the Effective Date and the Commencement Date, nothing in Seller's contracts with other parties prevents Seller from fully performing its obligations under this Agreement.

(iv) As of the Effective Date and the Commencement Date, nothing in Buyer's contracts with other parties prevents Buyer from fully performing its obligations under this Agreement.

(d) LSE-Related Representations. The Parties acknowledge that, as of the Effective Date, Buyer is a wholesale supplier of electric capacity and energy to the LSEs and does not have direct retail electric customers of its own. The LSEs are not parties to this Agreement. In light of the foregoing, Buyer represents and warrants that, as of the times indicated, the following are materially true and correct:

(i) As of the Effective Date and the Commencement Date, Buyer has delivered to Seller true, accurate and complete copies of the agreements, including all amendments and associated or ancillary agreements (supplements) affecting the rights and

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obligations as between Buyer and the LSEs to supply and to purchase, respectively, electric service (each such agreement with the LSEs, as so amended and supplemented, a “**Central-LSE Agreement**”).

(ii) As of the Effective Date, each Central-LSE Agreement is in full force and effect, and constitutes the valid and binding obligation of each party thereto enforceable by Buyer in accordance with its terms, subject to equitable remedies and the Bankruptcy Code.

(iii) As of the Effective Date, Buyer has not declared or received any notice of any breach of or default under any Central-LSE Agreement and, to the best of Buyer’s knowledge and excepting Marlboro Electric Cooperative, Inc., neither Buyer nor any LSE is in breach of or default under any Central-LSE Agreement and none of the LSEs has threatened in writing to terminate or cancel, or to challenge the validity or enforceability of, any Central-LSE Agreement.

Section 13.2 Covenants.

(a) Authority. Seller covenants that neither Seller nor any of its Affiliates or subsidiaries shall, during the Term, intentionally take any action that could reasonably be anticipated to cause Seller to lose its authority to sell and deliver capacity and energy as contemplated under this Agreement. Buyer covenants that it shall not, during the Term, intentionally take any action that could reasonably be anticipated to cause Buyer to lose its authority to purchase and receive capacity and energy as contemplated by this Agreement.

(b) Covenants of Seller.

(i) Seller covenants and agrees that it will perform its obligations under this Agreement and operate and maintain the Seller Generation System in accordance with Good Utility Practice in all material respects.

(ii) As of the Commencement Date and through the remainder of the Term, Seller shall use Commercially Reasonable Efforts to be a party to the VACAR South Reserve Sharing Group Arrangement (or any successor arrangement) and to be entitled to all rights and benefits available to other electric utilities that are participants under such arrangement.

(iii) Seller covenants and agrees that it will not oppose participation by Buyer or any LSE intervening or participating in any proceeding concerning Seller at the PSCSC, excluding a proceeding concerning the Initial Generation Plan.

(iv) On or prior to the Commencement Date, if appropriate, Seller shall execute and deliver to Buyer and Santee Cooper a duly executed counterpart signature page to the CIA Termination Agreement.

(v) Prior to the Commencement Date, Seller shall execute and deliver to Buyer a duly executed counterpart signature page to the Operations and Maintenance Agreement.

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(vi) Seller shall use Commercially Reasonable Efforts to retain or execute new power supply arrangements with each of the Other Wholesale Customers.

(c) Covenants of Buyer.

(i) Buyer shall not exercise any right it may have or take any action to terminate any Central-LSE Agreement without giving Seller not less than thirty (30) Days prior written notice.

(ii) Buyer shall provide written notice to Seller within three (3) Business Days of a declaration of, or receipt of notice with respect to, any breach of or default under any Central-LSE Agreement, including any written notice threatening to terminate or cancel, or to challenge the validity or enforceability of, any Central-LSE Agreement.

(iii) To the extent the respective Central-LSE Agreement permits Central to do so, Buyer shall not, without the prior written consent of Seller, consent to any assignment or transfer by any of the LSEs of all or a portion of its electric service under its Central-LSE Agreement other than to (1) a LSE that assumes all or a portion of the service territory and load assigned by a such transferring LSE, or (2) a Person, other than a LSE; *provided*, that such assignment does not reduce, in the case of clause (1), the aggregate of the assigning and assignee LSE's service purchases from Buyer or, in the case of clause (2) above, Buyer's electric service purchases from Seller or Buyer's ability to recover all of Buyer's costs; *provided, further*, that Buyer shall provide to Seller a summary of all such assignments/transfers, and summary of all such assignments.

(iv) Buyer shall not, without the prior written consent of Seller, amend or otherwise modify any Central-LSE Agreement in any manner that would alter (1) the obligation of each LSE, subject to any applicable regulatory approvals or requirements, to pay rates that are sufficient, when taken together with all other revenues of Buyer from other sources, to recover all of Buyer's costs, (2) the restrictions on each of the LSEs with respect to terminating or withdrawing from, or assigning, its Central-LSE Agreement, or (3) the electric service purchase obligations of each LSE under its Central-LSE Agreement; *provided, however*, Seller shall provide consent to such an amendment or modification if the effects of any such amendment or modification, individually or in the aggregate with other such amendments and modifications cumulatively (past and present) as of such time, are reasonably projected over the remaining Term of this Agreement, not to reduce any one of (x) such LSE's electric service purchases from Buyer, (y) Buyer's electric service purchases from Seller, or (4) Buyer's ability to recover all of Buyer's costs.

(v) Subject to restrictions on disclosure of confidential information in Section 13.7, Buyer shall promptly notify Seller in writing if it becomes aware of any actual, or threatened in writing, breach of or default under any Central-LSE Agreement and the facts related thereto.

(vi) Buyer shall enforce the purchase and payment obligations of each LSE under the Central-LSE Agreements.

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(vii) Buyer shall cooperate with Seller to implement the CEU Securitization authorized by the Enabling Legislation⁹ by using Commercially Reasonable Efforts to

(A) support the filing of a petition with the PSCSC by the Seller for a CEU Securitization order in the form contemplated by Section 58-31-840 of the Code of Laws of South Carolina 1976 (as enacted by the Enabling Legislation) (the “**CEU Financing Order**”) and either cause the LSEs to participate in such PSCSC proceeding (the “**CEU Financing Proceedings**”) or appoint Buyer as the LSEs respective attorney-in-fact for such purpose,

(B) provide support and any testimony, information and data in the CEU Financing Proceedings as may be necessary to secure the CEU Financing Order,

(C) cooperate, and cause the LSEs to cooperate, with the Seller, in the development of a special purpose vehicle created by Seller to serve as Issuer of the CEU Transition Bonds, the PSCSC, and any placement agent or underwriters in the preparation and delivery of documentation required by the Enabling Legislation and the CEU Financing Order to implement the CEU Securitization, including any sale agreement(s), servicing agreement(s), offering documents and all closing documentation and opinions,

(D) facilitate the negotiation and execution of sub-servicing agreements with the LSEs,

(E) cause the proceeds of the CEU Securitization to be applied as authorized by the CEU Financing Order and approved by the Seller, and

(F) abide by and enforce the provisions of the CEU Financing Order and all associated financing documents to which Buyer is a party.

Seller shall reimburse Buyer for its reasonable, documented costs of complying with this Section 13.2(c)(vii).

(viii) On or prior to the Commencement Date, Buyer shall execute and deliver to Seller and Santee Cooper a duly executed counterpart signature page to the CIA Termination Agreement.

(ix) Prior to the Commencement Date, Buyer shall execute and deliver (a) to Transmission Provider a duly executed counterpart signature page to the Network Integration Transmission Service Agreement, and (b) to Seller a duly executed counterpart signature page to the Operations and Maintenance Agreement.

Section 13.3 Assignment.

(a) General Prohibition. Except as specifically provided in this Section 13.3, neither Buyer nor Seller may assign this Agreement without obtaining the prior written consent of the

⁹ Subject to review and acceptance by Buyer of any changes that have a material effect on Buyer or its customers in the Enabling Legislation in comparison to the 2.02.2020 draft legislation provided by Seller and as may be proposed or in effect as of Effective Date.

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other Party, which may be withheld in such Party's sole discretion. This Agreement shall be binding upon and inure to the benefit of the permitted successors and permitted assigns of the Parties. Any assignment made without a consent required hereunder shall be null, void and of no force or effect. No sale, assignment, transfer, or other disposition permitted by this Agreement shall affect, release, or discharge any Party from its rights or obligations under this Agreement, except as may be expressly provided by this Agreement or by written agreement of the Parties.

(b) Permitted Assignments.

(i) RUS Assignments. In the event this Agreement is transferred, sold, pledged, encumbered with, or assigned to the RUS in connection with a loan agreement between the RUS and Buyer, and the RUS exercises its rights with respect to this Agreement in connection with a default by Buyer under such loan agreement, then the RUS, upon giving ten (10) Business Days written notice to Seller, shall be permitted to assign this Agreement to a third-party without the consent of either Party; *provided*, such third party has the demonstrated capability (financial and otherwise) to assume Buyer's performance obligations hereunder, as reasonably determined by Seller. This Agreement shall be binding upon and inure to the benefit of the RUS assignee.

(ii) Collateral Assignments. Either Party may, without the consent of the other Party, transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof for security in connection with any financing or other financial arrangements (a "**Collateral Assignment**"); *provided*, such Collateral Assignment shall not relieve the assigning Party from its performance obligations or liabilities hereunder. The non-assigning Party will exercise Commercially Reasonable Efforts to cooperate with the assigning Party in connection with such Collateral Assignment.

(iii) Seller Assignments. Seller may, without Buyer's consent, transfer or assign this Agreement to an Affiliate of Seller *provided*, any such Affiliate of Seller (w) shall agree in writing to be bound by the terms and conditions of this Agreement, (x) has, or upon such assignment will have, a credit rating that is equal to or higher than that of Seller, but at a minimum is Investment Grade, (y) succeeds to all or substantially all of Seller's assets, including Seller Native Load, and (z) has the technical capability to assume Seller's obligations hereunder, as reasonably determined by Buyer. Notwithstanding the preceding, except with respect to a Permitted Transfer, Seller may not undertake a Change in Control without obtaining Buyer's consent.

(iv) Buyer Assignments. Buyer may, without Seller's consent transfer or assign this Agreement to any Person that succeeds to all or substantially all of Seller's assets, including the obligation to sell wholesale capacity and electric energy to the LSEs to serve the LSEs Native Load; *provided*, any such Person (x) shall agree in writing to be bound by the terms and conditions of this Agreement, (y) has a credit rating that is equal to or higher than that of Buyer, but at a minimum is Investment Grade, and (z) has the technical capability to assume Buyer's obligations hereunder, as reasonably determined by Seller.

Section 13.4 Liability and Indemnification.

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(a) Indemnity.

(i) Except for indemnifiable Claims pursuant to Section 13.4(a)(iv), to the extent permitted by Law, each Party shall indemnify, defend, and hold harmless, on an After-Tax Basis, the other Party from and against any Claims arising from or out of any event, circumstance, act, omission, or incident, occurring or existing during the period when control and title to any electric energy is vested in such Party as provided in Section 4.3 of this Agreement.

(ii) Except for indemnifiable Claims pursuant to Section 13.4(a)(iv), to the extent permitted by Law, each Party shall indemnify, defend, and hold harmless, on an After-Tax Basis, the other Party from and against any Governmental Charges for which such Party is responsible under Section 13.8(b).

(iii) Except for indemnifiable Claims pursuant to Section 13.4(a)(iv), each Party shall indemnify, defend and hold harmless, on an After-Tax Basis, the other Party from and against any and all Claims for injuries to Person or property arising in any manner directly or indirectly by reason of the acts of such Party's authorized Representatives while on the premises of the other Party under any rights of access provided herein to the extent of the indemnified Party's self-insured retention or deductible under its insurance policies.

(iv) Neither Party assumes any responsibility of any kind with respect to the construction, maintenance, or operation of the system or other property owned or used by the other Party. To the extent permitted by Law, each Party agrees to indemnify, defend and hold harmless, on an After-Tax Basis, the other Party from any and all Claims for injuries to Person or property by any Person in any way resulting from or arising from or in connection with the construction, maintenance or operation of the other Party's system or other property.

If a Party intends to seek indemnification under this Section 13.4 from the other Party with respect to any Claim, the Party seeking indemnification shall give such other Party notice of such Claim within thirty (30) calendar days of the commencement of, or actual knowledge of such Claim, whichever is earlier. Such Party seeking indemnification shall have the right, at its sole cost and expense, to participate in the defense of any such Claim. The Party seeking indemnification shall not compromise or settle any such Claim without the prior consent of the other Party. Notwithstanding the foregoing, no Party will be required to indemnify, defend, or hold harmless any other Party from any losses or Claims under this Section 13.4 to the extent that such loss or Claim was caused by the other Party's gross negligence or willful misconduct. For the avoidance of doubt, the provisions of this Section 13.4 shall not apply to Seller in its capacity as a Transmission Provider. The indemnity obligations hereunder shall survive termination of this Agreement for a period of two (2) years.

(b) Liability Limitations.

(i) Limitation of Remedies. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES

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PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED REGARDLESS OF THE FAULT, NEGLIGENCE, OR STRICT LIABILITY OF THE PARTY WHOSE LIABILITY IS RELEASED OR LIMITED THEREBY. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE EXPRESS INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT, OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES AGREE THAT THE FOREGOING LIMITATIONS WILL NOT IN ANY WAY LIMIT LIABILITY OR DAMAGES UNDER ANY THIRD-PARTY CLAIMS, INCLUDING INDEMNIFIABLE CLAIMS MADE BY A PARTY.

(ii) Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages, and each covenants that it shall use Commercially Reasonable Efforts to minimize any damages it may incur as a result of the other Party's performance or nonperformance of this Agreement.

(iii) No Immunity Claim. Buyer warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (A) suit, (B) jurisdiction of court (including a court located outside the jurisdiction of its organization), (C) relief by way of injunction, order for specific performance or recovery of property, (D) attachment of assets, or (E) execution or enforcement of any judgment.

(iv)

Section 13.5 Force Majeure.

(a) Definition. The term "**Force Majeure**" means an event or circumstance that (i) prevents the Party claiming to be affected by it (the "**Claiming Party**") from performing its obligations in whole or in part under this Agreement, (ii) is not within the reasonable control of the Claiming Party, or the result of the negligence of the Claiming Party, and (iii) by the exercise of due diligence, the Claiming Party is unable to avoid or overcome using Commercially Reasonable Efforts. Provided that the preceding criteria are satisfied, Force Majeure shall

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include acts of God, or the public enemy, or insurrection, war, riot, acts of terrorism, acts of sabotage, civil disturbance or disorder, strikes, lockouts, work stoppages, freezes, fire, earthquakes, lightning, tornadoes, floods, hurricanes, storms, drought or other natural disasters, explosions, or actions or restraints by court order or Governmental Authority or confirmed arbitration award (so long as the Claiming Party has not sought or has opposed, to the extent reasonable, such actions or restraints). Nothing contained herein shall be construed so as to require a Party to settle any strike, lockout, work stoppage or other dispute in which it may be involved, or to seek review of or take an appeal from any administrative, arbitral or judicial action. “**Force Majeure**” shall not include acts that do not satisfy the criteria preceding the proviso immediately above and in any event shall expressly exclude (i) Seller’s ability to sell, or Buyer’s ability to purchase energy, capacity or environmental attributes at a more advantageous price than is provided hereunder; (ii) any unavailability, variability, or reduction in feedstock or other resources used by Seller to generate energy, unless such affects regional markets for the same; (iii) economic hardship, including lack of money; (iv) the imposition upon a Party of costs, new environmental programs or taxes allocated to such Party; (v) the termination of, or a failure to renew, any Central-LSE Agreement; (vi) delay or failure of Seller or Buyer to obtain or maintain any permit or license, unless due to an independent Force Majeure event; and (vii) the failure of any subcontractor or third party to perform any obligation owed to a Party, unless due to circumstances that would constitute Force Majeure under this Agreement.

(b) Obligations During Force Majeure.

(i) Suspension of Obligations. To the extent that the Claiming Party is prevented, delayed or otherwise limited by Force Majeure from carrying out, in whole or part, its obligations hereunder and such Party gives notice and details of the Force Majeure to the other Party (the “**Non-Claiming Party**”) in accordance with Section 13.5(b)(ii), then the Claiming Party shall be excused for the duration of the Force Majeure event from the performance of its obligations under this Agreement other than the obligation to make payments due in respect to performance before the occurrence of a Force Majeure. The Claiming Party shall remedy the Force Majeure event with all reasonable dispatch and through the exercise of Commercially Reasonable Efforts. The Non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure during the period that such Force Majeure remains in effect. Without limiting the foregoing, neither Party shall be liable for breach with respect to any obligation under this Agreement if prevented from performing such obligation by Force Majeure.

(ii) Notification. The Claiming Party shall provide notice to the other Party within twenty-four (24) Hours of knowledge of the event of Force Majeure. Initial notice may be given orally; *provided*, written notification with particulars of the event or occurrence must be given as soon as reasonably possible, but no later than five (5) Business days following the initial notice.

Section 13.6 Events of Default and Remedies.

(a) Events of Default. For the purposes of this Agreement, an “**Event of Default**” means, with respect to a Party (a “**Defaulting Party**”), the occurrence of any of the following:

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(i) The failure to make, when due, any payment or reimbursement required by this Agreement, including failing to credit any amounts to be credited by one Party to the other Party (other than disputed payments or credits pursuant to Section 10.3), if such failure is not remedied within thirty (30) Business Days after receipt of notice of such failure is given to the Defaulting Party by the other Party (the “**Non-Defaulting Party**”).

(ii) Any representation or warranty made by a Party is false or misleading in any material respect when made or when deemed made or repeated that renders such Party incapable of performing its obligations hereunder in all material respects in accordance with applicable Law, if (A) such misrepresentation or breach of warranty is not remedied within thirty (30) Days after receipt of notice of such failure is given to the Defaulting Party by the Non-Defaulting Party, or (B) such inaccuracy is not capable of being remedied, but the Non-Defaulting Party’s damages resulting from such inaccuracy can be reasonably ascertained and the payment of such damages is not made within thirty (30) Days after a notice of such damages is provided by the Non-Defaulting Party to the Defaulting Party.

(iii) The failure by a Party to perform any material covenant or material obligation set forth in this Agreement (except to the extent constituting a separate Event of Default under this Section 13.6), if such failure is not remedied within thirty (30) Business Days after receipt of notice of such failure is given to the Defaulting Party by the Non-Defaulting Party; *provided*, that if such failure is not reasonably capable of being remedied within the cure period specified above, the Defaulting Party shall have such additional time (not exceeding an additional one hundred twenty (120) Days) as is reasonably necessary to remedy such failure, so long as the Defaulting Party advises the Non-Defaulting Party of its plan for such cure and promptly commences and diligently pursues such remedy.

(iv) Such Party becomes Bankrupt.

(v) Such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger, or transfer, the resulting, surviving, or transferee entity is not Investment Grade or fails to assume all of the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

(vi) A MAC Party fails to provide Collateral as set forth in Section 12.3, or an Issuer or a qualified guarantor under any Guaranty fails to make, when due, any payment required, or fails to perform any other material covenant or obligation with respect to such Collateral, if such failure is not remedied within thirty (30) Business Days by such Defaulting Party after a notice of such failure is provided by the Non-Defaulting Party to the Defaulting Party.

(b) Effect of Event of Default.

(i) Notice of Termination. If an Event of Default described herein has not been cured within the prescribed time, the Non-Defaulting Party may (A) subject to the provisions of Section 13.6(b)(ii), terminate this Agreement by providing prior written notice to

the Defaulting Party specifying the termination date and collect a Termination Payment calculated pursuant to Section 13.6(b)(iii), (B) withhold any payments due to the Defaulting Party under this Agreement, offset against any payments due to the Defaulting Party, and draw against the Collateral any amounts due from the Defaulting Party, (C) suspend performance of its obligations and duties hereunder by delivering written notice to the Defaulting Party of its intent to exercise its suspension rights; and (D) pursue any other remedy given under this Agreement or now or hereafter existing at law or in equity or otherwise to the extent permitted under this Agreement.

(ii) Early Termination Date. In the event an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the Non-Defaulting Party shall have the right to (A) give notice to the Defaulting Party, which designates a Day, no earlier than the Day such notice is effective and no later than thirty (30) Days after such notice is effective, as an early termination date (“**Early Termination Date**”), and (B) in accordance with the terms of this Section 13.6(b), (y) accelerate all amounts owing between the Parties under this Agreement and to liquidate and terminate this Agreement, and (z) withhold any payments due to the Defaulting Party under this Agreement.

(iii) Termination Payment. For all purposes of this Agreement, the “**Termination Payment**” shall mean an amount, calculated by the Non-Defaulting Party, equal to (A) the sum of the difference between Losses and Gains (which difference shall not be less than zero), *plus* Costs, *plus* all amounts due to the Non-Defaulting Party under this Agreement, *minus* (B) all amounts due to the Defaulting Party under this Agreement. As soon as practicable after calculation of a Termination Payment, and no later than thirty (30) Days after the Early Termination Date, the Non-Defaulting Party shall give notice to the Defaulting Party of the amount of the Termination Payment. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Defaulting Party shall pay the Termination Payment to the Non-Defaulting Party within ten (10) Business Days after such notice is given. For purposes of this Section 13.6(b)(iii), the following definitions shall apply:

(A) “**Losses**” means an amount equal to the net present value of the economic loss to the Non-Defaulting Party (which, if Seller is the Non-Defaulting Party, shall include Stranded Asset Losses, if any), if any (exclusive of Costs), resulting from termination of this Agreement, determined in a commercially reasonable manner.

(B) “**Costs**” means, with respect to the Non-Defaulting Party, any costs and expenses, including attorneys’ fees and expenses, reasonably incurred by the Non-Defaulting Party in connection with termination of this Agreement, entering into new arrangements which replace this Agreement.

(C) “**Gains**” means, with respect to the Non-Defaulting Party, an amount equal to the net present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement, determined in a commercially reasonable manner.

(D) “**Stranded Asset Losses**” means an amount equal to the net present value of the economic loss to Seller, if any, resulting from the termination of this

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Agreement prior to the end of the Term with respect to any generation asset utilized by Seller to serve the Requirements Portion less any residual value of the generation asset, each as determined by Seller through the exercise of Commercially Reasonable Efforts.

(c) Specific Performance. The Parties agree that in the event of an Event of Default under this Agreement, the Non-Defaulting Party shall, in addition to any other remedy available to it herein, be entitled to a decree for specific performance hereof according to the terms of this Agreement. In the event of a failure by Buyer of the covenants set forth in Section 13.2(c)(v) that could reasonably be expected to diminish the revenues Buyer would obtain under one or more of the Central-LSE Agreements, which reduction in revenues would reasonably be expected to impair in part or in whole Buyer's ability to pay Seller under this Agreement, Seller shall, in addition to its remedies set forth herein, be summarily entitled to a decree of specific performance of such Section 13.2(c)(v) according to its terms.

(d) Enforcement of Remedies. The remedies provided for in Section 13.6(b) and Section 13.6(c) shall be the exclusive remedy available to the Non-Defaulting Party for damages incurred due to an Event of Default under this Agreement. No delay or failure on the part of a Non-Defaulting Party to exercise rights to which it may become entitled under this Article 13 on account of an Event of Default shall constitute an abandonment of any such right, and the Non-Defaulting Party shall be entitled to exercise such right or remedy at any time during the continuance of an Event of Default notwithstanding any delay in enforcing such right. No waiver of any Event of Default shall constitute a waiver of any later Event of Default; in no circumstance shall a waiver of an Event of Default be deemed effective unless such waiver is made in writing. Notwithstanding anything to the contrary in this Agreement, the termination of this Agreement shall not relieve a Defaulting Party of any obligation with respect to any breach of this Agreement occurring prior to such termination.

Section 13.7 Confidential Information.

(a) Nondisclosure. Neither Party shall disclose to a Person (other than the Party's Representatives who have a need to know such information and have agreed to keep such terms confidential) the terms or conditions of this Agreement, any information disclosed in connection with an audit hereunder, or disclosed by Seller to support its billing hereunder, information provided to the Operating Committee or information classified and marked by a Party as Confidential Information, except in order to comply with any applicable Law or regulation, any exchange, balancing authority area or independent system operator rule or in connection with any court or regulatory proceeding; *provided, however*, each Party shall, to the extent practicable, use Commercially Reasonable Efforts to prevent or limit the disclosure. The Parties recognize that Seller is required to file periodic reports with FERC that may disclose certain price, quantity, and related data, and such filings shall not be deemed a violation of this Section 13.7(a). Confidential Information received from the other Party shall be kept confidential in accordance with the terms of this Agreement for at least five (5) Years after the termination of this Agreement. Notwithstanding the foregoing, the Buyer may disclose to each LSE the terms or conditions of this Agreement or any information disclosed in connection with billing or an audit hereunder; *provided*, that Buyer obtains each LSE's agreement in writing, in a form reasonably satisfactory to Seller, to comply with this Section 13.7(a) with respect to such information.

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(b) Right to Remedies. In the event of an unauthorized disclosure to a third-party, the limitations on remedies contained in Section 13.4(b)(i) shall not apply, and, in the event of such a breach, Parties shall not have an adequate remedy at law and accordingly shall, in addition to any other available legal or equitable remedies, be entitled to an injunction against such breach without any requirement to post a bond as a condition of such relief.

Section 13.8 Governmental Liabilities.

(a) Minimization of Tax Liability. Each Party shall use Commercially Reasonable Efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is adversely affected by such efforts.

(b) Governmental Charges.

(i) With respect to sales of electric energy made by Seller to Buyer, Seller shall pay or cause to be paid all Governmental Charges imposed by any Governmental Authority on or with respect to such sales of electric energy to the extent such Governmental Charges arise prior to the Seller Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to such sale of electric energy to the extent such Governmental Charges arise after the Seller Delivery Point (other than ad valorem, franchise, gross receipts, or income taxes that are related to the sale of such product from Seller to Buyer and are, therefore, the responsibility of Seller).

(ii) In the event a Party is required by Law to remit or pay Governmental Charges that are the other Party's responsibility hereunder, the Party ultimately liable for the Governmental Charge shall promptly reimburse the remitting Party for such Governmental Charges. Nothing will obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the Law.

(c) Records. If any purchase or sale of electric energy is exempt from Governmental Charges a Party shall, upon written request of the other Party, provide a certificate of exemption or other reasonably satisfactory evidence of exemption, and shall use Commercially Reasonable Efforts to obtain and cooperate with obtaining any exemption from or reduction of any Governmental Charges.

Section 13.9 Choice of Law.

The validity, interpretation, and performance of this Agreement and the rights and duties of the Parties arising out of this Agreement shall be governed by and construed, enforced, and performed in accordance with the Laws of the State of South Carolina, and to the extent applicable by the Federal Law of the United States of America. Except as explicitly provided in the immediately preceding sentence, no principle, doctrine, or rule of conflicts of law shall modify or alter the applicability of the Laws of the State of South Carolina to this Agreement.

Section 13.10 Survival of Obligations.

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Except as otherwise provided for herein, applicable provisions of this Agreement shall continue in effect for one (1) Year following the end of the Term to the extent necessary to provide for final accounting, billing (including any “true-up” billing provided for in this Agreement), billing adjustments, resolution of any billing disputes, realization of any collateral or other security, set-off, final payments, or payments pertaining to liability and indemnification obligations arising from acts or events that occurred in connection with this Agreement during the Term. Upon the termination of the Parties’ obligations under this Agreement, any monies, damages, penalties or other charges due and owing under this Agreement shall be paid, any corrections or adjustments to payments previously made shall be determined, and any refunds due shall be made, as soon as practicable. All remedies, indemnity and confidentiality obligations and audit rights shall survive the termination of this Agreement in accordance with their respective terms. Upon the effective date of any termination of this Agreement, each Party’s obligations provided for in this Agreement and the Choice of Law provisions will survive termination and remain in effect solely for the purpose of complying with the provisions of this Section 13.10; OTHERWISE, AS PROVIDED IN ARTICLE 2 HEREOF, TERMINATION OF THIS AGREEMENT IS ABSOLUTE, AND NO OTHER OBLIGATIONS, DUTIES, OR RIGHTS WHATSOEVER ARISING UNDER THIS AGREEMENT SHALL REMAIN IN EFFECT FOLLOWING THE TERMINATION OF THIS AGREEMENT.

Section 13.11 Entire Agreement.

This Agreement, and the Appendices attached hereto, constitute the entire and integrated agreement between the Parties relating to the rates, terms, conditions and other provisions set out in this Agreement as of the Effective Date. This Agreement supersedes all prior agreements, whether oral or written, related to the sale and delivery of capacity and energy pursuant to this Agreement. The terms of this Agreement, including the Appendices attached hereto, are controlling, and no parol or extrinsic evidence, including but not limited to prior drafts or projections of future costs or rates, shall be used to vary, contradict, or interpret the express rates, terms, conditions or other provisions of this Agreement or as a basis for challenging the justness and reasonableness of, or any other aspect of, any rate, term, condition or any other provision of this Agreement.

Section 13.12 Cost Projections.

Seller makes no warranties or representations whatsoever concerning any cost or rate projections or other information that Seller has provided in connection with the negotiations leading up to the execution of this Agreement, and Buyer expressly assumes the risk of reliance on any cost or rate projections provided by Seller. Any differences between projected costs or rates provided by Seller and actual costs or rates will not limit or in any way affect the rates, terms, or conditions of this Agreement or either Party’s rights and obligations hereunder.

Section 13.13 LSE System Load Forecasts.

On or before the Commencement Date and each August 1 thereafter during the Term, Buyer shall provide Seller with forecasted projections for the aggregated Monthly electric peak

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load and aggregated Monthly electric energy requirements for the LSEs for the following ten (10) Years, except that Buyer shall not be required to provide such information for any period beyond the termination date (the “**LSE System Load Forecasts**”). For purposes of this Section 13.13, aggregated Monthly electric peak load and aggregated Monthly electric energy requirements for the LSEs shall refer to the Monthly electric peak load and Monthly electric energy requirements forecasted from the Buyer Delivery Points. Upon request by Seller, Buyer shall provide such reasonable supporting detail and assumptions underlying the forecast.

Section 13.14 Unique Agreement.

The Parties agree that this Agreement is a unique agreement and that this Agreement shall not establish any precedent for any other services, or be relied upon by either Party for any purpose other than for the services and payments provided herein.

Section 13.15 No Transfer of Rights.

Except as explicitly provided herein, if at all, nothing in this Agreement shall be construed to transfer any rights or obligations that either Party has under any other agreement to the other Party.

Section 13.16 No Partnership.

The Parties are independent contractors. Nothing in this Agreement shall ever be deemed to create or constitute a partnership, joint venture, or association between the Parties, or to impose a trust or partnership or other fiduciary duty, obligation, or liability on or with regard to either of the Parties. Without limiting the generality of the foregoing, this Agreement imposes no duty on either Party other than the duties expressly set forth herein.

Section 13.17 Third-Parties.

The provisions of this Agreement shall not impart rights enforceable by any Person or entity not a Party or not a permitted successor or assignee of a Party bound by this Agreement. This Agreement shall not be construed to create any third-party beneficiary rights of any sort.

Section 13.18 Waiver.

Except as provided in Section 3.4, no waiver of all or any part of this Agreement shall be valid unless it (a) is reduced to writing, (b) expressly states that the Parties agree to such waiver, and (c) is signed by the Parties. Except as specifically set forth herein, neither Seller’s nor Buyer’s failure to enforce any provision or provisions of this Agreement at any time shall in any way be construed as a waiver of any such provision or provisions, nor prevent it from enforcing each and every provision of this Agreement at such time or at any time thereafter. The waiver by either Seller or Buyer of any right or remedy with respect to any other event shall not constitute a waiver of its right to assert said right or remedy with respect to an event, at any time thereafter, or any other rights or remedies available to it at the time of or any time after such waiver.

Section 13.19 Headings.

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The descriptive headings of the various Articles and Sections of this Agreement (and the Appendices attached hereto) have been inserted for convenience of reference only and in no way shall be deemed to modify or restrict any of the terms or provisions hereof.

Section 13.20 Severability.

Wherever possible, each provision of this Agreement (including the Appendices attached hereto) shall be interpreted in a manner as to be effective and valid under applicable Law, but if any provision contained herein shall be found or ruled to be invalid, illegal, or unenforceable in any respect and for any reason, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality, or unenforceability without invalidating the remainder of the provision or any other provision of this Agreement, and in such event, the Parties shall attempt to negotiate amendments to this Agreement that would permit each Party to realize the equivalent value of the economic bargain contemplated by this Agreement absent such finding or ruling.

Section 13.21 Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

Section 13.22 Notices.

Unless otherwise provided in this Agreement, any notice, consent, or other communication required to be made under this Agreement shall in writing and shall be deemed given when delivered in person, by certified mail (postage prepaid, return receipt requested), by nationally recognized overnight courier (charges prepaid), or when sent by electronic mail in each case properly addressed to such Party as shown below.

Either Party may from time to time change its address, designee or contact information for the purposes of notices, consents, or other communications to that Party by a similar notice specifying a new address, but no such change shall become effective until it is actually received by the Party to be charged with its contents.

All notices, consents, or other communications required or permitted under this Agreement that are addressed as provided in this Section 13.22 shall be deemed to have been given upon delivery if delivered in person, or upon deposit if delivered by overnight courier or certified mail.

Seller:

[•]
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Mark Hickson; Charles E. Sieving
E-mail: mark.hickson@nexteraenergy.com;
charles.sieving@nexteraenergy.com

Buyer:

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Central Electric Power Cooperative, Inc.
20 Cooperative Way
Columbia, South Carolina 29210
Attention:
E-Mail:

The Parties may agree on alternative methods of giving operational and scheduling notices, consistent with the requirements of the applicable Transmission Providers.

Section 13.23 No Dedication of the System.

No undertaking by either Party to the other Party under any provision of this Agreement shall constitute the dedication of the Seller Generation System, Seller's Transmission System, or Buyer's Transmission System, or any portion thereof to the public or to the other Party, and it is understood and agreed that any such undertaking by either Party to the other Party shall cease after the termination date of this Agreement. The sale by Seller to Buyer of electric capacity and energy under this Agreement does not constitute a sale, lease, transfer, or conveyance of any kind of ownership interest in or to any of Seller's facilities of any kind.

Section 13.24 Further Assurances.

If either Party determines in its reasonable discretion that any further instruments, assurances, or other things are necessary or desirable to carry out the terms of this Agreement, the other Party shall execute and deliver all such instruments or assurances, and do all things reasonably necessary or desirable to carry out the terms of this Agreement.

Section 13.25 Applicable Laws and Regulations.

This Agreement is made subject to all existing and future applicable Laws and to all existing and future promulgated orders or other duly authorized actions of any Governmental Authority having jurisdiction over the matters set forth in this Agreement.

Section 13.26 No Public Announcement.

No press release or other public announcement, or public statement or comment in response to any inquiry, relating to this Agreement or the transactions contemplated hereby shall be issued or made by either the Buyer or Seller, or any of their respective Affiliates or Representatives, without the consent of the Buyer or Seller, as the case may be; *provided*, that a press release or other public announcement, regulatory filing, statement or comment made without such consent shall not be in violation of this Section 13.26 if it is made in order to comply with applicable Laws or stock exchange rules and in the reasonable judgment of the Party or Affiliate making such release or announcement, based upon advice of counsel, prior review and joint approval, despite exercising Commercially Reasonable Efforts to obtain the same, would prevent dissemination of such release or announcement in a sufficiently timely fashion to comply with such applicable Laws or rules; *provided, further*, that in all instances the Buyer and Seller, as the case may be, shall provide prompt notice of any such release, announcement, statement or comment to the other Party.

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[THE NEXT PAGE IS THE SIGNATURE PAGE]

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers and copies delivered to each Party.

CENTRAL ELECTRIC POWER COOPERATIVE, INC.

By: _____

Name: [●]

Title: [●]

[NEXTERA ENTITY]

By: _____

Name: [●]

Title: [●]

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APPENDIX A

Formula Rate

See attached Excel Formula Rate workbook:

Formula Rate\Formula Rate Workbook.xlsx

Formula Rate\Formula Rate.pdf

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APPENDIX B

Delivery Points

APPENDIX C

Existing Generation¹⁰

49.735 MWs of diesel generators.¹¹

Solar facilities totaling 2.775 MW (AC) that are either owned by Buyer or as to which Buyer purchases under a power purchase agreement and has the option to purchase the facilities.¹²

Power purchase agreement with NextEra with respect to a 6.5 MW (AC) solar facility.¹³

Two power purchase agreements with Savion with respect to 75 MW (AC) solar facilities (150 MW (AC) total), projected to commence service in December 2022.¹⁴

¹⁰ Buyer has until ten (10) Business Days prior to the Effective Date to make each of the confirmations or elections in the four (4) footnotes immediately below. Seller will provide reasonably requested information to Buyer to facilitate such elections, provided that nothing will change the numbers in the footnotes below. Seller to provide data room document 2.2.27 and work with Buyer to understand how Seller assesses the fuel rate increases.

¹¹ Buyer to demonstrate to Seller's reasonable satisfaction that the demand in Central's 12CP demand forecast as provided in data room document 2.2.27 has been reduced by the capacity provided by these assets. If that is not demonstrated to Seller's reasonable satisfaction, Buyer has the option to (i) include the diesel generation assets as Existing Generation and accept an upward adjustment to the Monthly Fuel Rate during the Freeze Period of \$0.73 / MWh, or (ii) not include the diesel assets as Existing Generation but rather have these assets treated as they otherwise would be treated under this Agreement.

¹² Buyer to demonstrate to Seller's reasonable satisfaction that the demand in Central's 12CP demand forecast as provided in data room document 2.2.27 has been reduced by the capacity provided by these assets. If that is not demonstrated to Seller's reasonable satisfaction, Buyer has the option to (i) including these assets as Existing Generation and accept an upward adjustment to the Monthly Fuel Rate during the Freeze Period of \$0.01 / MWh, or (ii) not include these assets as Existing Generation but rather have these assets treated as they otherwise would be treated under this Agreement.

¹³ Buyer to demonstrate to Seller's reasonable satisfaction that the demand in Central's 12CP demand forecast as provided in data room document 2.2.27 has been reduced by the capacity provided by these assets. If that is not demonstrated to Seller's reasonable satisfaction, Buyer has the option to (i) including the PPA as Existing Generation and accept an upward adjustment to the Monthly Fuel Rate during the Freeze Period of \$0.024 / MWh, or (ii) not include the PPA as Existing Generation but rather have it treated as a PURPA resource under this Agreement.

¹⁴ Buyer to demonstrate to Seller's reasonable satisfaction that the demand in Central's 12CP demand forecast as provided in data room document 2.2.27 has been reduced by the capacity provided by these assets. If that is not demonstrated to Seller's reasonable satisfaction, Buyer to select whether to include the two 75 MW solar resources as Existing Generation and accept a \$0.55 increase in the Monthly Fuel Rate during the Freeze Period, or not include these PPAs as Existing Generation and have them treated as PURPA resources under this Agreement.

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APPENDIX D

Form of Network Integration Transmission Service Agreement

APPENDIX E

Fuel Rate Adjustments

Gas Adjustment

Define the following variables as:

$n \in N$ where N is the first full 48 calendar months following the Commencement Date

s_n : forecast total system electricity sales in month n in kWh

f'_n : monthly forward Henry Hub gas price in month n as of Jan 27, 2020 in \$/MMbtu

f''_n : monthly forward Henry Hub gas price in month n as of Commencement Date in \$/MMbtu

g_n : modeled generation gas consumption in month n in MMbtu

Δr_g : fuel surcharge adjustment assessed across rate freeze period in ¢/kWh

Then the gas fuel surcharge adjustment shall be calculated as:

$$\Delta r_g = \frac{(\sum_{n \in N} f''_n g_n - \sum_{n \in N} f'_n g_n) \cdot 100}{\sum_{n \in N} s_n}$$

The monthly forward Henry Hub gas prices, f'_n , are presented in the table below:

Month	Henry Hub Forward Settlement Price as of 1/27/2020 (\$ per MMbtu)
Jan 2021	2.567
Feb 2021	2.532
Mar 2021	2.433
Apr 2021	2.217
May 2021	2.198
Jun 2021	2.236
Jul 2021	2.274
Aug 2021	2.280
Sep 2021	2.265
Oct 2021	2.287
Nov 2021	2.352
Dec 2021	2.523
Jan 2022	2.638
Feb 2022	2.606
Mar 2022	2.477
Apr 2022	2.232
May 2022	2.207
Jun 2022	2.250

Month	Henry Hub Forward Settlement Price as of 1/27/2020 (\$ per MMBtu)
Jul 2022	2.296
Aug 2022	2.306
Sep 2022	2.296
Oct 2022	2.321
Nov 2022	2.389
Dec 2022	2.559
Jan 2023	2.683
Feb 2023	2.643
Mar 2023	2.516
Apr 2023	2.266
May 2023	2.253
Jun 2023	2.295
Jul 2023	2.338
Aug 2023	2.354
Sep 2023	2.348
Oct 2023	2.378
Nov 2023	2.452
Dec 2023	2.631
Jan 2024	2.755
Feb 2024	2.719
Mar 2024	2.594
Apr 2024	2.334
May 2024	2.314
Jun 2024	2.344
Jul 2024	2.374
Aug 2024	2.382
Sep 2024	2.375
Oct 2024	2.398
Nov 2024	2.460
Dec 2024	2.640
Jan 2025	2.761
Feb 2025	2.731
Mar 2025	2.618
Apr 2025	2.358
May 2025	2.346
Jun 2025	2.376
Jul 2025	2.408
Aug 2025	2.415
Sep 2025	2.409
Oct 2025	2.433

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Month	Henry Hub Forward Settlement Price as of 1/27/2020 (\$ per MMBtu)
Nov 2025	2.495
Dec 2025	2.657

The modeled monthly gas consumption numbers are presented in the table below.

Month	Modeled Generation Gas Consumption (MMbtu)
Jan 2021	6,074,433
Feb 2021	6,979,927
Mar 2021	8,890,470
Apr 2021	10,655,632
May 2021	10,961,964
Jun 2021	10,873,395
Jul 2021	10,802,870
Aug 2021	10,923,541
Sep 2021	10,740,314
Oct 2021	11,582,024
Nov 2021	11,537,265
Dec 2021	8,343,405
Jan 2022	6,357,788
Feb 2022	7,269,598
Mar 2022	10,329,456
Apr 2022	10,824,279
May 2022	11,353,493
Jun 2022	10,820,918
Jul 2022	11,711,491
Aug 2022	11,524,838
Sep 2022	10,780,628
Oct 2022	11,244,010
Nov 2022	10,973,950
Dec 2022	9,349,279
Jan 2023	8,722,736
Feb 2023	6,963,401
Mar 2023	8,999,179
Apr 2023	10,528,833
May 2023	11,355,157
Jun 2023	11,292,349
Jul 2023	11,700,940
Aug 2023	11,164,466
Sep 2023	9,542,443

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Month	Modeled Generation Gas Consumption (MMbtu)
Oct 2023	9,748,218
Nov 2023	9,919,459
Dec 2023	11,018,660
Jan 2024	9,563,145
Feb 2024	7,952,706
Mar 2024	9,180,684
Apr 2024	7,787,169
May 2024	9,823,503
Jun 2024	12,508,617
Jul 2024	13,855,951
Aug 2024	13,130,826
Sep 2024	11,510,553
Oct 2024	10,196,380
Nov 2024	10,526,717
Dec 2024	9,309,127
Jan 2025	10,026,962
Feb 2025	8,822,122
Mar 2025	9,972,604
Apr 2025	9,323,929
May 2025	10,430,721
Jun 2025	12,352,515
Jul 2025	13,763,156
Aug 2025	13,114,838
Sep 2025	11,062,674
Oct 2025	9,787,542
Nov 2025	9,973,352
Dec 2025	6,769,012

Coal Adjustment

Define the following variables as:

$n \in N$ where N is the first full 48 calendar months following the Commencement Date

s_n : forecast total system electricity sales in month n in kWh

f'_n : modeled monthly weighted average delivered coal price in month n in \$/MMbtu

f''_n : contracted monthly weighted average delivered coal price in month n as of Commencement Date in \$/MMbtu

c_n : modeled coal purchases in month n required to replenish burned amount in month n

Δr_c : average fuel surcharge adjustment assessed across rate freeze period in ¢/kWh

Then the coal fuel surcharge adjustment shall be calculated as:

$$\Delta r_c = \frac{(\sum_{n \in N} f''_n c_n - \sum_{n \in N} f'_n c_n) \cdot 100}{\sum_{n \in N} s_n}$$

The modeled monthly coal prices, f'_n , are presented in the table below:

Month	Department Model Coal Price (\$/MMbtu) ¹⁵
Jan 2021	\$3.160
Feb 2021	\$3.160
Mar 2021	\$3.160
Apr 2021	\$3.160
May 2021	\$3.160
Jun 2021	\$3.160
Jul 2021	\$3.160
Aug 2021	\$3.160
Sep 2021	\$3.160
Oct 2021	\$3.160
Nov 2021	\$3.160
Dec 2021	\$3.160
Jan 2022	\$3.105
Feb 2022	\$3.105
Mar 2022	\$3.105
Apr 2022	\$3.105
May 2022	\$3.105
Jun 2022	\$3.105
Jul 2022	\$3.105

¹⁵ Coal prices from Santee Cooper revenue requirement model; data room document 12.1.9.

Month	Department Model Coal Price (\$/MMbtu)¹⁵
Aug 2022	\$3.105
Sep 2022	\$3.105
Oct 2022	\$3.105
Nov 2022	\$3.105
Dec 2022	\$3.105
Jan 2023	\$3.152
Feb 2023	\$3.152
Mar 2023	\$3.152
Apr 2023	\$3.152
May 2023	\$3.152
Jun 2023	\$3.152
Jul 2023	\$3.152
Aug 2023	\$3.152
Sep 2023	\$3.152
Oct 2023	\$3.152
Nov 2023	\$3.152
Dec 2023	\$3.152
Jan 2024	\$3.232
Feb 2024	\$3.232
Mar 2024	\$3.232
Apr 2024	\$3.232
May 2024	\$3.232
Jun 2024	\$3.232
Jul 2024	\$3.232
Aug 2024	\$3.232
Sep 2024	\$3.232
Oct 2024	\$3.232
Nov 2024	\$3.232
Dec 2024	\$3.232
Jan 2025	\$3.330
Feb 2025	\$3.330
Mar 2025	\$3.330
Apr 2025	\$3.330
May 2025	\$3.330
Jun 2025	\$3.330
Jul 2025	\$3.330
Aug 2025	\$3.330
Sep 2025	\$3.330
Oct 2025	\$3.330
Nov 2025	\$3.330
Dec 2025	\$3.330

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The modeled annual coal consumption volumes are presented in the table below:

Month	Modeled Generation Coal Consumption (MMbtu)
Jan 2021	10,835,564
Feb 2021	10,204,357
Mar 2021	8,653,819
Apr 2021	3,240,775
May 2021	4,581,551
Jun 2021	8,056,495
Jul 2021	9,688,323
Aug 2021	9,176,519
Sep 2021	7,274,119
Oct 2021	5,674,804
Nov 2021	5,259,997
Dec 2021	5,366,420
Jan 2022	9,433,834
Feb 2022	6,916,650
Mar 2022	4,642,266
Apr 2022	3,268,493
May 2022	4,622,358
Jun 2022	6,459,622
Jul 2022	9,864,214
Aug 2022	8,103,177
Sep 2022	5,967,538
Oct 2022	4,425,194
Nov 2022	3,624,699
Dec 2022	6,472,532
Jan 2023	9,709,493
Feb 2023	10,640,317
Mar 2023	3,558,828
Apr 2023	3,261,103
May 2023	4,806,548
Jun 2023	7,715,303
Jul 2023	9,118,858
Aug 2023	7,147,451
Sep 2023	6,745,539
Oct 2023	3,080,218
Nov 2023	3,599,743
Dec 2023	157,799
Jan 2024	5,382,004
Feb 2024	4,525,707
Mar 2024	298,113

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Apr 2024	784,545
May 2024	-
Jun 2024	987,790
Jul 2024	2,703,127
Aug 2024	1,672,586
Sep 2024	269,126
Oct 2024	-
Nov 2024	-
Dec 2024	1,948,386
Jan 2025	2,779,926
Feb 2025	804,984
Mar 2025	713,377
Apr 2025	723,970
May 2025	-
Jun 2025	340,710
Jul 2025	2,292,791
Aug 2025	1,070,225
Sep 2025	335,165
Oct 2025	258,359
Nov 2025	-
Dec 2025	5,880,717

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APPENDIX F

Form of CIA Termination Agreement

TERMINATION AND RELEASE AGREEMENT

This Termination and Release Agreement (this “**Agreement**”), dated as of [●] [●], 2020 (the “**Execution Date**”), is by and among South Carolina Public Service Authority, a component unit of the State of South Carolina (the “**Authority**”), Central Electric Power Cooperative, Inc., a cooperative corporation organized and existing under the laws of the State of South Carolina (“**Central**”), and, for the limited purposes expressly specified herein, NextEra Energy, Inc., a Florida corporation (“**NextEra**”). Authority and Central are sometimes referred to individually as a “**Party**” and jointly as the “**Parties**.”

RECITALS

WHEREAS, Authority and Central are parties to that certain Power Systems Coordination and Integration Agreement, dated as of December 31, 1980 (as amended, restated or modified from time-to-time, the “**Coordination Agreement**”);

WHEREAS, Authority and Central are parties to the lease agreements identified on Exhibit A hereto (collectively, the “**Legacy Lease Agreements**”);

WHEREAS, pursuant to the Legacy Lease Agreements and the Coordination Agreement, Authority has the option (the “**Option**”) to acquire from Central certain property (real or personal) that is the subject of the Legacy Lease Agreements (which option was exercised on [●]) and for which title has not yet been conveyed or transferred from Central to Authority (the “**Legacy Leased Properties**”);

WHEREAS, NextEra and Authority are parties to an Asset Purchase Agreement, dated as of [●] [●], 2020 (the “**Purchase Agreement**”), pursuant to which upon the terms and subject to the conditions specified therein Authority shall sell, assign, convey, transfer, and deliver to NextEra (and/or one or more controlled subsidiaries of NextEra as specified therein) the Purchased Assets (as defined in the Purchase Agreement), including Authority’s electric power system;

WHEREAS, Buyer Subsidiary (as defined in the Purchase Agreement) and Central are parties to a Power Purchase Agreement, dated as of [●] [●], 2020 (the “**Power Purchase Agreement**”), pursuant to which upon the terms and subject to the conditions specified therein, Buyer Subsidiary shall, among other things, sell and deliver and Central shall, among other things, purchase and receive energy and capacity; and

WHEREAS, the Parties intend to terminate each Party’s rights and obligations with respect to the Coordination Agreement (the “**Termination**”) and provide for the transfer to Buyer Subsidiary of the Legacy Leased Properties, including all rights to acquire the Legacy Leased Properties and any such right arising under the Coordination Agreement, subject to satisfaction of the conditions precedent set forth in this Termination Agreement;

NOW, THEREFORE, in consideration of the terms and conditions set forth in this Termination Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Authority and Central hereby agree to terminate the Coordination Agreement in accordance with the following terms and conditions:

TERMS

1. Termination. Notwithstanding anything to the contrary in the Coordination Agreement, except as specifically set forth in Section 3, all of the rights and obligations of each Party under the Coordination Agreement are hereby terminated effective concurrently with the last to occur of each of the following (the “**Termination Date**”),

- (a) the Closing (as defined in the Purchase Agreement, the “**Closing**”) under the Purchase Agreement; and
- (b) the Commencement Date (as defined in the Power Purchase Agreement, the “**Commencement Date**”).

From and after the Termination Date, except as specifically provided herein, the Coordination Agreement will be of no further force or effect with respect to the parties thereto, and the rights and obligations of the parties thereunder shall terminate.

2. Mutual Release. Each of the following subsections (a) through (d) is conditioned upon the occurrence of the Termination Date, and effective as of the Termination Date.

(a) Authority, on behalf of itself and its respective present and former parents, subsidiaries, affiliates, officers, directors, shareholders, members, successors and assigns (collectively, the “**Authority Releasors**”), hereby releases, waives and forever discharges Central and its respective present and former members, agents, representatives, permitted successors and permitted assigns (collectively, the “**Central Releasees**”) of and from any and all actions, causes of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands, of every kind and nature whatsoever, whether now known or unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, admiralty or equity (collectively, the “**Authority Claims**”), which any of such Authority Releasors ever had, now have, or hereafter can, shall, or may have against any of such Central Releasees for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time through the Termination Date arising out of or relating to the Coordination Agreement, except for any Authority Claims relating to rights and obligations preserved by, created by or otherwise arising out of this Agreement.

(b) Central, on behalf of itself and its respective present and former members, successors and assigns (collectively, the “**Central Releasors**” and, together with Authority Releasors, the “**Releasors**”) hereby releases, waives and forever discharges Authority and its respective present and former, direct and indirect, parents, subsidiaries, affiliates, employees, officers, directors, shareholders, members agents, representatives, permitted successors and permitted assigns (collectively, the “**Authority Releasees**” and, together with the Central Releasees, the “**Releasees**”) of and from any and all actions, causes of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands, of every

kind and nature whatsoever, whether now known or unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, admiralty or equity (collectively, the “**Central Claims**” and, together with Authority Claims, the “**Claims**”), which any of such Central Releasors ever had, now have, or hereafter can, shall, or may have against any of such Authority Releasees for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time through the Termination Date arising out of or relating to the Coordination Agreement, except for any Central Claims relating to rights and obligations preserved by, created by or otherwise arising out of this Agreement.

(c) Each Party, on behalf of itself and each of its respective Releasors, understands that it may later discover Claims or facts that may be different than, or in addition to, those that it or any other Releasor now knows or believes to exist regarding the subject matter of the release contained in this Section 2, and which, if known at the time of signing this Agreement, may have materially affected this Agreement and such Party’s decision to enter into it and grant the release contained in this Section 2. Nevertheless, except as otherwise expressly set forth herein, the Releasors intend to fully, finally and forever settle and release all Claims that now exist, may exist or previously existed, as set forth in the release contained in this Section 2, whether known or unknown, foreseen or unforeseen, or suspected or unsuspected, and the release given herein is and will remain in effect as a complete release, notwithstanding the discovery or existence of such additional or different facts. The Releasors hereby waive any right or Claim that might arise as a result of such different or additional Claims or facts. The Releasors expressly, knowingly and intentionally waive any and all rights, benefits, and protections of any state or federal statute or common law principle limiting the scope of a general release.

(d) The Parties acknowledge and agree that all liabilities and obligations of Authority under or arising out of the Coordination Agreement and that are not released under this Agreement will remain the sole liabilities and obligations of Authority after the Closing and neither NextEra nor Buyer Subsidiary are assuming any of such liabilities or obligations in any respect whatsoever. Accordingly, Central agrees that it shall not seek any recourse with respect to such liabilities and obligations, no matter when or how arising, from NextEra, Buyer Subsidiary or any of their respective affiliates. NextEra, as a successor in interest of Authority, agrees that it shall not seek and shall not permit Buyer Subsidiary to seek any recourse with respect to such liabilities and obligations, no matter when or how arising, from Central in any respect whatsoever.

3. Covenants.

(a) Final Accounting. Applicable provisions of the Coordination Agreement shall continue in effect for one hundred eighty (180) days following the Termination Date solely to the extent necessary to provide for final accounting, billing, billing adjustments, resolution of any billing disputes, set-off, or final payments. Upon the Termination Date, any monies, damages, penalties or other charges due and owing under the Coordination Agreement shall be paid, any corrections or adjustments to payments previously made shall be determined, and any refunds due shall be made, as soon as practicable.

(b) Existing Leases; Legacy Leased Properties.

(i) As of the Termination Date, Central waives its right, pursuant to Article XVI, Section F (Sale or Leasing of Authority System) of the Coordination Agreement, to terminate any existing leases of Central facilities to Authority, including the Legacy Lease Agreements set forth on Exhibit A, hereof.

(ii) On or prior to the Termination Date, Central and Authority shall use commercially reasonable efforts to effect the transfer and conveyance to Authority of some or all of the Legacy Leased Properties pursuant to, and as contemplated by, the Option. Such transferred Legacy Leased Properties will be freely transferable from Authority to NextEra or Buyer Subsidiary (as applicable) in connection with the Closing. If, on or prior to the Termination Date, all of the Legacy Leased Properties have not been transferred and conveyed to Authority or for which title to such Legacy Lease Properties have not been transferred or conveyed from Central to Authority, then, notwithstanding the termination of the Coordination Agreement, the Option, including for the avoidance of doubt any rights to acquire such remaining Legacy Leased Properties arising under the Coordination Agreement, will be preserved and transferred to NextEra or Buyer Subsidiary, and Central and NextEra or Buyer Subsidiary (as applicable) shall effect the transfer and conveyance such remaining Legacy Leased Properties to NextEra or Buyer Subsidiary (as applicable) as soon as reasonably practicable.

4. Representations and Warranties. Each Party hereby represents and warrants to the other Party and NextEra and NextEra hereby represents and warrants to the each of the Parties that:

(a) It has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder.

(b) The execution of this Agreement by the individual whose signature is set forth at the end of this Agreement on behalf of such Party, and the delivery of this Agreement by such Party, have been duly authorized by all necessary action on the part of such Party.

(c) This Agreement has been executed and delivered by such Party and (assuming due authorization, execution, and delivery by the other Party hereto) constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

(d) It (i) knows of no Claims against a Party relating to or arising out of the Coordination Agreement that are not covered by the release contained in Section 2, and (ii) as applicable solely to each Party, has neither assigned nor transferred any of the Claims released herein to any person or entity and no person or entity has subrogated to or has any interest or rights in any Claims.

EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION 4, (A) NO PARTY HERETO, NEXTERA, AND NOT ANY PERSON ON SUCH PARTY'S BEHALF OR ON NEXTERA'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER, EITHER ORAL OR WRITTEN, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE

EXPRESSLY DISCLAIMED, AND (B) EACH PARTY AND NEXTERA HERETO ACKNOWLEDGES THAT, IN ENTERING INTO THIS AGREEMENT, IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY A PARTY OR NEXTERA, OR ANY OTHER PERSON ON SUCH PARTY'S OR NEXTERA'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 4.

5. Miscellaneous.

(a) All notices, requests, consents, claims, demands, waivers, summons and other legal process, and other similar types of communications hereunder (each, a "**Notice**") must be in writing and addressed to the relevant Party at the address set forth in the Coordination Agreement (or to such other address that may be designated by the receiving Party or NextEra from time to time).

(b) This Agreement, including its existence, validity, construction and operating effect, and the rights of each of the Parties and NextEra, shall be governed by and construed in accordance with the laws of the State of South Carolina, without regard to principles of conflicts of law thereof that may require the application of the law of another jurisdiction. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY FINANCING, THE ANCILLARY AGREEMENTS, ANY CERTIFICATE, INSTRUMENT, OR OTHER DOCUMENT EXECUTED OR DELIVERED IN CONNECTION IN HEREWITH, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY.

(c) This Agreement and each of the terms and provisions hereof may only be amended, modified, waived or supplemented by an agreement in writing signed by each Party and NextEra.

(d) No Party may assign, transfer or delegate any or all of its rights or obligations under this Agreement without the prior written consent of the other Parties; *provided, however*, that either Party may assign this Agreement to a successor-in-interest by consolidation, merger or operation of law or to a purchaser of all or substantially all of the Party's assets. No assignment will relieve the assigning Party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing will be null and void. This Agreement will inure to the benefit of and be binding upon each of the Parties and NextEra and each of their respective permitted successors and permitted assigns.

(e) This Agreement may be executed in counterparts, each of which is deemed an original, but all of which constitutes one and the same agreement. Delivery of an executed counterpart of this Agreement electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Agreement.

(f) For purposes of this Agreement, (i) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; (iii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (iv) words denoting the singular have a comparable meaning when used

in the plural, and vice-versa; and (v) words denoting any gender include all genders. This Agreement was drafted without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

(g) The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

(h) If any provision contained in this Agreement shall for any reason be held to be invalid, illegal, void or unenforceable in any respect, such provision shall be deemed modified so as to constitute a provision conforming as nearly as possible to the invalid, illegal, void or unenforceable provision while still remaining valid and enforceable and the remaining terms or provisions contained in this Agreement shall not be affected thereby.

(i) No failure on the part of the Parties or NextEra hereto to exercise, and no delay in exercising, any right, power or remedy created under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy by such Party or NextEra preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver by the Parties or NextEra hereto to any breach of, or default in, any term or condition of this Agreement shall constitute a waiver of or assent to any succeeding breach of or default in the same or any other term or condition of this Agreement. The terms and provisions of this Agreement, whether individually or in their entirety, may only be waived in writing and signed by the entity against whom or which the enforcement of such waiver is sought. No right, remedy or election given by any term of this Agreement or made by any party shall be deemed exclusive, but shall be cumulative with all other rights, remedies and elections available at law or in equity.

(j) From and after the date of execution of this Agreement, the Parties and NextEra agree to, upon the request of the other Party or NextEra, execute and deliver to the other Party or NextEra any further documents, certificates or instruments, and to perform any further acts as may be required or reasonably requested to complete or evidence the transaction contemplated by this Agreement.

(k) This Agreement benefits solely the Parties hereto and, as provided, NextEra, and each of their respective permitted successors and permitted assigns. Nothing in this Agreement, express or implied, confers on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. The Parties hereby (i) agree that NextEra and Buyer Subsidiary are entitled to the benefit of the releases, waivers and discharges set forth in Section 2, and (ii) designate NextEra and Buyer Subsidiary as third-party beneficiaries of Section 2, each having the right to enforce Section 2 against the Releasers.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

By: _____

Name:

Title:

CENTRAL ELECTRIC POWER COOPERATIVE, INC.

By: _____

Name:

Title:

NEXTERA ENERGY, INC. (solely for the limited purposes expressly set forth herein)

By: _____

Name:

Title:

Exhibit A

Legacy Lease Agreements

1. Contract Obligation dated January 1, 1950, by and between Authority and Central, as amended.
2. Lease Contract dated October 22, 1952, by and between Authority and Central, as amended.
3. D Lease Contract dated April 25, 1963, as amended by Agreement and Lease made as of September 23, 1968 (D&E Lease Contract E Amendment to D Lease Contract), by Agreement and Lease made as of April 27, 1970 (F Amendment to D&E Lease Contract), by Agreement and Lease made as of September 20, 1973 (G Amendment to D, E & F Lease Contract), by Agreement and Lease made as of October 20, 1975 (H Amendment to D, E, F & G Lease Contract), by Agreement and Lease made as of April 27, 1976 (K Amendment to D, E, F, G & H Lease Contract), and by Agreement and Lease made as of December 22, 1976 (L Amendment to D, E, F, G, H & K Lease Contract).

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APPENDIX G

Form of Transmission Operation and Maintenance Agreement

TRANSMISSION OPERATION AND MAINTENANCE AGREEMENT

Dated as of [●], [2020]

between

Central Electric Power Cooperative, Inc.

and

NextEra Energy O&M Services, LLC

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APPENDIX A – FACILITIES

TRANSMISSION OPERATION AND MAINTENANCE AGREEMENT

THIS TRANSMISSION OPERATION AND MAINTENANCE AGREEMENT (the “**Agreement**”) is made as of [●], [2020] (the “**Effective Date**”), by and between Central Electric Power Cooperative, Inc., an electric cooperative formed under SC Code 33-49-10 *et seq.*, (“**Owner**”), and NextEra Energy O&M Services, LLC, a Delaware limited liability company (“**Operator**”).

RECITALS

WHEREAS, Owner is the owner of certain designated transmission facilities (the “**Facilities**”, as further defined herein); and

WHEREAS, Owner desires to retain the services of Operator for operation and maintenance of the Facilities.

NOW, THEREFORE, in consideration of the premises and the mutual covenants, undertakings and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

SECTION 1 DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. Except as otherwise expressly provided or unless the context otherwise requires, the capitalized terms set forth below used in this Agreement (including the Recitals and Appendices) have the following meanings:

“**Affiliate**” means, with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, “control” when used with respect to any Person 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, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Agreement**” means this Transmission Operation and Maintenance Agreement between Owner and Operator, including all Appendices, as the same may be modified or amended from time to time in accordance with the provisions hereof.

“**Applicable Law**” means any Law, Permits, franchise, requirement or order of any federal, state or local agency, court or other governmental body, applicable from time to time to the operation of the Facilities.

“**Effective Date**” has the meaning given in the Preamble.

“**Environmental Claim**” means, with respect to any Person, any and all suits, sanctions, liabilities, legal proceedings, claims, demands, losses, costs and expenses of whatsoever kind or character, including reasonable attorneys’ fees (whether at the trial or appellate level), civil fines

or penalties or other expenses incurred, assessed or sustained by or against such Person as a result of or in connection with any Environmental Law.

“Environmental Law” means any Law relating to the environment, health or safety now or hereafter in effect and applicable to either the Facilities or site of the Facilities.

“Extension Term” has the meaning given in Section 6.1.

“Facilities” means those transmission facilities identified on Appendix A, as amended, including any authorized additions, modifications, supplements or replacements thereof, owned by Owner and for which Owner desires Operator to operate and maintain; *provided*, no transmission facility of Owner will be designated as Facilities if such transmission facility (1) is not owned by Owner, (2) is leased by Owner to any other Person, (3) is located outside the State of South Carolina, or (4) is substantially different in kind or nature from the transmission facilities owned and operated by Operator and its Affiliates. With respect to clause (4), differences in pole height shall not constitute being substantially different as long as Owner’s pole heights are under 100 feet.

“Financing Agreement” means any credit agreement, reimbursement agreement, note purchase agreement, trust indenture, lease agreement or other document (and any documents relating to or ancillary to the foregoing documents) identified from time to time in writing by Owner to Operator as a “Financing Agreement” under which Owner or any Affiliate of Owner obtains financing that is secured by all or substantially all of the assets of Owner (including any credit enhancement for any bonds) for the acquisition, development, construction, modification, repair or operation of the Facilities or any refinancing thereof.

“Force Majeure” means any event which wholly or partly prevents or delays the performance of any obligation arising under this Agreement but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party affected, (ii) such event, despite the exercise of reasonable diligence, cannot be prevented, avoided or overcome by such Party, (iii) the Party affected has taken all reasonable precautions and measures in order to avoid the effect of such event on such Party’s ability to perform its obligations under this Agreement and to mitigate the consequences thereof, and (iv) such event is not the direct or indirect result of a Party’s negligence or the failure of such Party to perform any of its obligations under this Agreement or to comply with Applicable Law. Force Majeure may include, but is not limited to, any of the following (but only if and to the extent such event meets the requirements of (i) – (iv) above): (a) acts of God or the public enemy, war, whether declared or not, blockade, insurrection, riot, civil disturbance, public disorders, rebellion, violent demonstrations, revolution, sabotage or terrorist action; (b) any effect of unusual natural elements, including fire, subsidence, earthquakes, floods, lightning, tornadoes, unusually severe storms, or similar cataclysmic occurrence or other unusual natural calamities; (c) environmental and other contamination at or affecting the Facilities; (d) explosion, accident or epidemic; (e) governmental action or inaction; (f) general strikes, lockouts or other collective or industrial action by workers or employees, or other labor difficulties; (g) the unavailability of labor, fuel, power or raw materials, the breakdown of the Facilities or equipment failure; (h) accidents of navigation or breakdown or injury of vessels, accidents to harbors, docks, canals or other assistances to or adjuncts of shipping or navigation, or quarantine; (i) nuclear emergency,

radioactive contamination or ionizing radiation or the release of any hazardous waste or materials; and (j) air crash, shipwreck, train wrecks or other failures or delays of transportation; *provided, however*, that the lack of money and changes in market conditions shall not constitute Force Majeure.

“Government Agency” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, instrumentality, judicial or administrative body, or any independent system operator, regional transmission operator, or similar entity, having jurisdiction over Owner, Operator, the Facilities or the site of the Facilities.

“Hazardous Materials” means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls (“PCBs”); (b) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of “hazardous substances”, “hazardous wastes”, “hazardous materials”, “extremely hazardous wastes”, “restricted hazardous wastes”, “toxic substances”, “toxic pollutants”, or words of similar import, under any Environmental Law or in any regulations thereto; and (c) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any Government Agency.

“Indemnified Party” has the meaning given in Section 7.3.

“Initial Term” has the meaning given in Section 6.1.

“Law” means any act, statute, law or regulation of any Government Agency as in effect from time to time relating to the Facilities and the operation and maintenance thereof.

“Operator” has the meaning given in the Preamble.

“Operator Indemnified Party” means Operator, its shareholders, partners, principals, Affiliates, officers, directors, employees, agents and representatives.

“Owner” has the meaning given in the Preamble.

“Owner Indemnified Party” means Owner and its respective members, shareholders, partners, principals, Affiliates, officers, directors, employees, agents and representatives.

“Party” means either Operator or Owner, and **“Parties”** means both Operator and Owner.

“Pass-Through Costs” means those reasonable and actual direct and indirect costs properly incurred by Operator in the performance of its duties under this Agreement in accordance with Operator’s established practice and policies then in effect. Pass-Through Costs shall include all operations, maintenance and capital costs incurred to perform day-to-day and long-term Services and will also include support costs and transition costs such as (a) legal costs, (b) home office costs, (c) human resources costs, recruiting and retention costs, relocation costs for personnel, management costs, employee bonuses, (d) costs of non-operations accounting,

bookkeeping and administrative costs, engineering costs and reliability support costs, (e) all other overhead costs, (f) all reasonable mobilization costs incurred by Operator and (g) all costs incurred in connection with transition services in connection with a change to a new operator or any termination of this Agreement.

“Permits” means all of the consents, approvals, authorizations, directives, licenses and permits issued by any federal, state, local agency or authority, to Owner and/or Operator with respect to the ownership, construction, and operation of the Facilities in accordance with this Agreement.

“Person” means any individual, partnership, corporation, association, business, trust, government or political subdivision thereof, governmental agency or other entity.

“Prudent Operating and Maintenance Practices” means the generally accepted and sound utility industry practices, methods and acts applicable to similar independent transmission facilities situated in the United States. Prudent Operating and Maintenance 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 act having due regard for, among other things, manufacturer’s warranties and the requirements of any Government Agency of competent jurisdiction.

“Services” means the activities and services to be provided by Operator described in Section 2.1.

“Site Leader” has the meaning given in Section 2.1.3.

“Winding-Up” of or in relation to a Person includes the amalgamation, reconstruction, reorganization, administration, dissolution, liquidation, bankruptcy, merger or consolidation of that Person and any equivalent or analogous procedure under the law of any jurisdiction in which that Person is incorporated, domiciled or resident, carries on business or has any assets.

Section 1.2 Interpretation. Unless the context otherwise requires:

1.2.1 Words singular and plural in number will be deemed to include the other and pronouns having a masculine or feminine gender will be deemed to include the other.

1.2.2 Any reference in this Agreement to any Person includes its permitted successors and assigns and, in the case of any Government Agency, any Person succeeding to its functions and capacities.

1.2.3 Any reference in this Agreement to any Section or Appendix means and refers to the Section contained in or Appendix attached to this Agreement.

1.2.4 A reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, amended, modified, supplemented, restated or replaced from time to time.

1.2.5 The word “include” and “including” are not words of limitation and shall be deemed to be followed by the words “without limitation.”

Section 1.3 Technical Meanings. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

Section 1.4 Headings. Headings are for reference only and do not form part of this Agreement.

Section 1.5 Interpretation; Precedence. In case of express conflict between a Section and an Appendix, the order of precedence shall be as follows:

- A. Section
- B. Appendix

Subject to the foregoing, if any requirements specified in any Appendix are in conflict with any other requirements in such Appendix or in any other Appendix, the more detailed requirements shall prevail. Notwithstanding the above, the provisions of this Agreement, including all Appendices, shall be, wherever possible, construed as complementary rather than conflicting.

Section 1.6 Status of Operator. Operator shall perform and execute its obligations under this Agreement as an independent contractor to Owner and, to the limited extent set forth herein, agent to Owner and shall not be a partner or employee of Owner.

SECTION 2 RESPONSIBILITIES OF OPERATOR

Section 2.1 Scope of Services. Operator shall operate and maintain the Facilities in a prudent and efficient manner and in accordance with (a) the applicable contractor, subcontractor and vendor warranties or guarantees and manufacturer’s instructions and specifications, (b) all Applicable Laws and applicable standards, (c) Prudent Operating and Maintenance Practices and (d) the terms of this Agreement. Additions to the scope of Facilities may be permitted if Owner gives at least one calendar year advance written notice; *provided*, that such additions comply with the conditions listed in the definition of Facilities and such notice includes plans and specifications of said additions for review and comment by Operator. If Owner requests that the operation and maintenance of the Facilities be performed at standards, practices and/or methods more stringent than those set forth in the definition of Prudent Operating and Maintenance Practices, then: (a) Owner shall provide written notice of such request to Operator, (b) Operator shall evaluate the impacts (including cost) and provide a good faith non-binding estimate of compliance to Owner, and (c) upon Owner’s agreement to accept such impacts and pay such costs, Operator will perform the Services in accordance with such standards, practices and/or methods. Notwithstanding any provision of this Agreement, Operator shall have no responsibility with respect to the operation or maintenance of any transmission facility of Owner which is under construction or otherwise prior to the time such transmission facility is energized or placed into service for the purposes of transmitting electrical power and energy on a continuous basis consistent with Prudent Operating and Maintenance Practices.

2.1.1 Personnel. The Facilities are non-union transmission facilities. Operator shall provide and make available, as necessary, all such labor and professional, supervisory and managerial personnel as are required to perform the Services. Such personnel shall be competent, qualified and experienced in the duties to which they are assigned. All individuals employed by Operator in the performance of the Services shall be the employees of Operator or seconded employees of Affiliates of Operator, and their working hours, rates of compensation and all other matters relating to their employment shall be determined solely by Operator. With respect to hiring of personnel and its employment policy, Operator shall comply with all Applicable Laws and shall exercise control over labor relations in a reasonable manner consistent with the intent and purpose of this Agreement. From and after the Effective Date, Operator shall retain sole authority, control and responsibility with respect to labor matters in connection with the performance of the Services.

2.1.2 Emergencies. In the event of an emergency affecting the safety or protection of Persons or endangering the Facilities or property located at the Facilities, Operator shall take prompt action to attempt to prevent, or to mitigate as much as practicable, such threatened damage, injury or loss.

2.1.3 Representative of Operator. On the Effective Date, Operator shall appoint an individual representative (the “**Site Leader**”) authorized and empowered to act for and on behalf of Operator on all matters concerning this Agreement and Operator’s obligations hereunder.

2.1.4 Estimated Budget. Prior to each calendar year, Operator shall prepare and submit to Owner an estimated annual budget. Such estimated annual budget shall be for informational purposes only and shall not impact Owner’s obligation to pay for all Pass-Through Costs.

2.1.5 Operating Data. Operator shall monitor and record all operating data reasonably requested by Owner and shall make such operating data available to Owner upon any reasonable request by Owner. Such operating data shall include any operating logs and maintenance records.

2.1.6 Financial Records. Operator shall keep and maintain complete and accurate records of its costs and expenses related to the Services in accordance with sound and generally accepted accounting principles applied on a consistent basis. Operator shall provide Owner access to such records for examination, copying and audit as requested by Owner. Operator shall keep such records for a period of not less than seven (7) years after the year in which such records were prepared, or such longer period as required by Law.

2.1.7 Insurance. In connection with providing the Services, Operator shall procure and maintain workers’ compensation insurance for statutory obligations, employers’ liability insurance, automobile liability insurance ((for all owned, non-owned and hired vehicles) and general liability insurance. Operator shall be responsible for covering all deductibles associated with the foregoing insurance coverage.

2.1.8 Capital Additions and Maintenance. No construction or repairs which alter or change any part of the Facilities, except for minor emergency repairs, shall be permitted without the prior approval of Owner. Owner reserves the right to make or cause to be made any and all capital additions and changes.

2.1.9 Inventory. Operator shall maintain an inventory of spare parts, miscellaneous material, capital equipment, and other equipment necessary in the opinion of Operator to perform the Services. Operator shall accept into such inventory all materials associated with or retired from the Facilities and will credit Owner for the value of materials so received. Such value shall be determined in the same manner in which Operator determines the value of materials for work performed for its affiliates. Otherwise, the cost of maintaining any such inventory, spare parts, miscellaneous material, capital equipment or other equipment necessary to perform the Services shall be paid by Owner as a Pass-Through Cost when obtained or purchased by Operator.

Section 2.2 Subcontractors. Operator may enter into subcontracts for certain of the Services; *provided, however,* all subcontracts shall be fair and reasonable to Operator and Owner and shall be negotiated on an arm's length basis. Any subcontracting of the Services shall not (a) relieve Operator of any of its duties, liabilities or obligations hereunder, (b) relieve Operator of its responsibility for the performance of Services rendered by any such subcontractor, or (c) create any relationship between Owner and any subcontractor. Insofar as is reasonably practicable, Owner shall communicate with any subcontractor only through Operator. No subcontractor is intended to be or shall be deemed a third-party beneficiary of this Agreement.

Section 2.3 Title Transfer. Title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on a Pass-Through Cost basis hereunder shall pass immediately to and vest in Owner upon the passage of title from the vendor or supplier thereof.

SECTION 3 LIMITATIONS ON AUTHORITY OF OPERATOR

Section 3.1 Agency. Subject to the limitations on Operator's authority set forth in this Agreement, Operator is hereby authorized by Owner to enter into, on behalf of Owner and as agent of Owner, but in the name of Owner, purchase orders and service agreements in connection with the delivery of the Services. In connection with implementing the foregoing, any agreement, contract, notice or other document that is expressly permitted hereunder may be executed by the Site Leader or such other individual representative of Operator who is authorized and empowered by Operator to execute such documents. Operator shall not claim title to any supplies, consumables, tools, software, office equipment or furniture acquired on behalf of Owner other than such training or operational software that Operator designates as its own property.

Section 3.2 General Limitations. Notwithstanding any provision in this Agreement to the contrary, unless previously expressly approved in writing by Owner, Operator shall not (and shall not permit any of its agents or representatives to):

3.2.1 Disposition of Assets. Lease, pledge, mortgage, convey, license, exchange or make any other transfer or disposition of any property or assets of Owner, except for the trade-in of equipment and the sale of scrap in the ordinary course of business, in either case, not to exceed in any one instance \$5,000. The proceeds of any sales of scrap shall inure to the benefit of Owner, and Operator shall hold the proceeds in trust for Owner and immediately forward such proceeds to Owner;

3.2.2 Lawsuits and Settlements. Settle, compromise, assign, pledge, transfer, release or consent to the compromise, assignment, pledge, transfer or release of, any claim, suit, debt, demand or judgment against or due by, Owner or Operator, the cost of which, in the case of Operator, would be a Pass-Through Cost hereunder; or

3.2.3 Changes in Configuration. Modify or alter the Facilities or any component thereof in a manner that materially alters the function, transmission capacity or efficiency of the Facilities or any component thereof.

SECTION 4 RESPONSIBILITIES OF OWNER

Section 4.1 Access.

4.1.1 Owner. At Owner's expense, Owner, and its agents, consultants, and representatives, shall have access at all reasonable times to the Facilities, all Facilities operations and any documents, materials and records and accounts relating thereto for purposes of inspection and review. Upon the reasonable request of Owner, Operator shall make available to such Persons, and provide them with access to, any operating data and all operating logs.

4.1.2 Cooperation. During any inspection or review of the Facilities, Owner, and its agents, consultants and representatives, shall comply with all of Operator's safety and security procedures, and Owner, and its agents, consultants and representatives, shall conduct such inspection and reviews in such a manner as to cause minimum interference with Operator's activities.

Section 4.2 Manuals. Owner shall provide Operator with copies of all manufacturers' equipment manuals, if any. Owner shall make available electronically to Operator all Owner's administrative procedures, as reasonably requested.

Section 4.3 Insurance. Owner shall secure, at its sole expense, and maintain in effect during the term (i) property insurance and general liability insurance for the Facilities and (ii) business auto liability insurance (for all owned, non-owned and hired vehicles). Owner shall be responsible for covering all deductibles associated with the foregoing insurance coverage, unless the incident or claim that precipitates the payment of such deductible is due to the gross negligence of Operator.

SECTION 5 COMPENSATION AND PAYMENT

Section 5.1 Pass-Through Costs. Owner shall pay Pass-Through Costs incurred by Operator performing the Services in the manner set forth herein.

5.1.1 Monthly. Operator will submit a monthly invoice to Owner for all Pass-Through Costs to be paid for such calendar month, including (a) the amount of Pass-Through Costs expected to be incurred in such month plus (b) a true-up for any prior payments made for Pass-Through Costs and the actual amount of such Pass-Through Costs. The invoice may be submitted prior to such calendar month.

5.1.2 Payment. Owner will pay to Operator the amount of such monthly invoice by the 5th business day of the applicable month. Payment shall be made by wire transfer, or if mutually agreed, by a different payment method. Operator shall not be required to perform the Services if the Owner has failed to make payment for, or until the Owner has paid, the Pass-Through Services included in the monthly invoice.

SECTION 6 TERM

Section 6.1 Term. The term (the “**Term**”) of this Agreement shall commence on the Effective Date and shall expire on December 31, 2030 (the “**Initial Term**”). Either Party may terminate this Agreement on not less than five (5) years’ prior written notice to the other Party, effective no earlier than at the expiration of the Initial Term. If not so terminated, this Agreement shall automatically renew and extend for consecutive, subsequent terms of five (5) years (each such stated five (5) year extension term being an “**Extension Term**”); *provided, however*, this Agreement may be terminated by either Party effective at any time subsequent to the expiration of the Initial Term by written notice given to the other Party at least five (5) years prior to the desired termination date. The Initial Term, together with each Extension Term (the duration of which shall be as determined in accordance with this Section 6.1), if any, shall constitute the “**Term.**” Any notice of termination given in accordance with this Section 6.1 is referred to as a “**Termination Notice.**” Notwithstanding the foregoing, this Agreement is subject to earlier termination pursuant to Sections 6.2 and 6.3.

Section 6.2 Termination by Owner. Owner shall be permitted to terminate this Agreement if any of the following events occur (a) a voluntary Winding-Up of Operator commenced by Operator; (b) an involuntary Winding-Up instituted against Operator that is not stayed, dismissed or terminated within ninety (90) days after commencement; (c) a material default by Operator of its obligations under this Agreement; *provided*, Operator shall have up to one hundred twenty (120) days after receipt of written notice by Owner to cure such default or make substantial progress towards curing such default, if the default is capable of being cured; or (d) an event of Force Majeure affecting Operator’s performance of the Services continues for a period of one hundred twenty (120) consecutive days. Promptly after the date of termination, Operator shall be paid for the Services rendered by Operator through such termination date, including all fees earned through the date of termination and all reasonable costs incurred by the

Operator in support of termination of this Agreement, transitioning to a new operator and demobilization.

Section 6.3 Termination by Operator. Operator shall be permitted to terminate this Agreement if any of the following events occur (a) a payment default by Owner with respect to undisputed amounts that is not cured within thirty (30) days after written notice is provided to the Owner; (b) a voluntary Winding-Up of Owner commenced by Owner; (c) an involuntary Winding-Up of Owner instituted against Owner, that is not stayed, dismissed or terminated within ninety (90) days after commencement; or (d) a material default by Owner of any other obligation under this Agreement, *provided* Owner shall have up to one hundred twenty (120) days after receipt of written notice by Operator to cure such other default or make substantial progress towards cure if the default is capable of being cured. Operator shall provide Owner with written notice of its intent to terminate this Agreement no later than three months prior to the date of termination.

Section 6.4 Transition. Upon expiration or termination of this Agreement, Operator shall assist with the transition of the operations of the Facilities to its successor and shall remove its personnel from the Facilities. All special tools, improvements, software inventory of supplies, spare parts, safety equipment, and any other items furnished and paid on a Pass-Through Cost basis under this Agreement will be left at the Facilities and will become or remain the property of Owner without additional charge. Operator shall execute all documents and take all other reasonable steps requested by Owner that may be required to assign to and vest in Owner all rights, benefits, interests and title in connection with such obligations. All costs of Operator to support transition services shall be Pass-Through Costs.

Section 6.5 Termination Fee. In the event of a termination of this Agreement by Operator, Owner shall pay a termination fee to Operator in an amount equal to the total Pass-Through Costs for the prior calendar year; *provided*, that if such termination occurs during the first calendar year, then the termination fee shall be an amount equal to the Pass-Through Costs budgeted for the first calendar year. Owner shall pay such fee within 30 calendar days of the termination of this Agreement.

SECTION 7 INDEMNIFICATION

Section 7.1 By Operator. Subject to the provisions of Section 8, Operator shall indemnify, defend and hold harmless the Owner Indemnified Parties from and against any and all suits, actions, liabilities, legal proceedings, claims, demands, losses, costs and expenses of whatsoever kind or character, including reasonable attorneys' fees and expenses, for injury or death of persons or physical loss of or damage to property of Persons other than Owner arising from Operator's (including its employees or agents) gross negligence or willful misconduct in connection with performance of the Services.

Section 7.2 By Owner. Subject to the provisions of Section 8, Owner shall indemnify, defend and hold harmless the Operator Indemnified Parties from and against any and all suits, actions, liabilities, legal proceedings, claims, demands, losses, costs and expenses of whatsoever kind or character, including reasonably attorneys' fees and expenses, for injury or

death of persons or physical loss of or damage to property of Persons and entities other than Operator arising from Owner's (including its employees or agents) gross negligence or willful misconduct in connection with the performance of Owner's obligations hereunder.

Section 7.3 Cooperation Regarding Claims. If any Party (each, an "Indemnified Party") shall receive notice or have knowledge of any claim that may result in a claim for indemnification by such Indemnified Party against a Party, such Indemnified Party shall, as promptly as possible, give the indemnifying Party notice of such claim, including a reasonably detailed description of the facts and circumstances relating to such claim, and a complete copy of all notices, pleadings and other papers related thereto, and in reasonable detail the basis for its potential claim for indemnification with respect thereto; *provided*, that failure promptly to give such notice or to provide such information and documents shall not relieve the indemnifying party from the obligation hereunder to respond to or to defend the Indemnified Party failing to give such notice against such claim. The Party against whom indemnification is claimed shall, upon its acknowledgment in writing of its obligation to indemnify the Indemnified Party seeking indemnification, be entitled to assume the defense or to represent the interests of the Indemnified Party and to propose, accept or reject offers of settlement, all at its sole cost; *provided, however*, that without the Indemnified Party's consent, which consent may not be unreasonably withheld, the indemnifying Party may only consent to entry of a judgment or settlement that does not provide for injunctive or other nonmonetary relief affecting the Indemnified Party.

SECTION 8 LIABILITIES OF THE PARTIES

Section 8.1 Limitations of Liability.

8.1.1 Consequential Damages. Notwithstanding any provision herein to the contrary, neither Party nor any of their respective officers, members, shareholders, partners, principals, Affiliates, agents, subcontractors, vendors or employees shall be liable hereunder for punitive, indirect, consequential or exemplary losses or damages of any nature, including damages for lost profits or revenues or the loss or use of such profits or anticipated revenues, cost of capital, loss of goodwill, increased costs of purchasing or providing equipment, materials, labor, services, penalties, damages to reputation or damages for lost opportunities, or any other special or incidental damages, regardless of whether said claim is based upon contract, warranty, tort (including negligence and strict liability) or other theory of law.

8.1.2 Waivers of Liability. The Parties agree that the waivers and disclaimers of liability, indemnities, releases from liability, and limitations on liability expressed herein shall survive termination or expiration of this Agreement, and shall apply at all times, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the members, shareholders, partners, principals, Affiliates, directors, officers and employees, agents and related or affiliated entities of such Party, and their shareholders, partners, principals, Affiliates, directors, officers and employees.

Section 8.2 Environmental Liability. Owner alone shall be solely responsible for present or future Environmental Claims directly or indirectly related to or arising out of the

actual or alleged existence, generation, use, collection, treatment, storage, transportation, recovery, removal, discharge or disposal of Hazardous Materials present at, in or under the Facilities and/or adjacent areas prior to the Effective Date. Owner shall defend, indemnify and hold Operator and each Operator Indemnified Party harmless against all such Environmental Claims. After the Effective Date, Operator shall be responsible for its generation, use, collection, storage or removal of Hazardous Materials at, in or under the Facilities and/or adjacent areas other than in compliance with Applicable Laws except to the extent that such generation, use, collection, storage or removal is due to the negligence or intentional misconduct of Owner. Operator shall defend, indemnify and hold Owner and each Owner Indemnified Party harmless against all such Environmental Claims for which Operator is responsible.

Section 8.3 Limitation of Operator's Liability. Operator's liability hereunder shall be limited as follows: the total aggregate liability of Operator to Owner for all liability arising out of or in connection with the performance of the Services, Operator's obligations hereunder or the operation of the Facilities in any calendar year under any theory of recovery, whether based in contract, in tort (including negligence and strict liability) or otherwise, and notwithstanding any other provisions of this Agreement, shall in no event exceed One Million Dollars (\$1,000,000); *provided*, such limitations of liability shall not apply if and to the extent that the Operator commits fraud or willful misconduct.

SECTION 9 REPRESENTATIONS AND WARRANTIES

Section 9.1 Operator Representations and Warranties. Operator represents and warrants to Owner that:

9.1.1 Organization and Good Standing. Operator is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware.

9.1.2 Enforceability. This Agreement constitutes the legal, valid and binding obligation of Operator, except as enforceability may be limited by (a) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (b) general principles of equity.

9.1.3 Due Authorization. The execution, delivery and performance of this Agreement by Operator has been duly authorized by all requisite action and will not conflict with any provisions of any Law, or any agreement or instrument to which it is a party or by which it, its property or assets may be bound or affected.

9.1.4 Licenses. Operator is the holder of all necessary governmental consents, licenses, permits or other authorizations required to operate or conduct its business as contemplated herein.

9.1.5 Qualifications and Skill of Operator. Operator is qualified to operate and maintain the Facilities and to provide the Services contemplated by this Agreement. All personnel employed by Operator to perform its obligations hereunder shall be qualified to perform such obligations and shall be experienced or shall be properly trained in performing the tasks which they shall perform.

Section 9.2 Owner Representations and Warranties. Owner represents and warrants to Operator that:

9.2.1 Organization and Good Standing. Owner is an electric cooperative formed under SC Code 33-49-10 *et seq.*

9.2.2 Enforceability. This Agreement constitutes the legal, valid and binding obligation of Owner, except as enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and (ii) general principles of equity.

9.2.3 Due Authorization. The execution, delivery and performance of this Agreement by Owner has been duly authorized by all requisite action and will not conflict with any provisions of any Law, or any agreement or instrument to which it is a party or by which it, its property or assets may be bound or affected.

SECTION 10 FORCE MAJEURE

Section 10.1 Excused Performance. Except for the obligation to make payments for the Services actually rendered hereunder, either Party shall be excused from performance and shall not be considered to be in default in respect to any obligation hereunder, if failure of performance shall be due to an event of Force Majeure.

Section 10.2 Notice of Force Majeure. If either Party's ability to perform its obligations hereunder is affected by an event of Force Majeure, such Party shall promptly, upon learning of such event of Force Majeure and ascertaining that it will affect its performance hereunder, give notice to the other Party stating the nature of the event, its anticipated duration and any action being taken to avoid or minimize its effect. The burden of proof shall be on the Party asserting excuse from performance due to such event of Force Majeure.

Section 10.3 Scope. The suspension of performance shall be of no greater scope and no longer duration than that which is absolutely necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform and to mitigate any damage as a result thereof.

SECTION 11 DISPUTE RESOLUTION

Section 11.1 Dispute Resolution. The Parties will attempt in good faith to promptly resolve any dispute arising out of or relating to this Agreement by use of the following procedures, in the order listed:

(a) If any dispute or controversy prove incapable of being settled between the representatives of the Parties normally responsible for administration of this Agreement, such dispute shall then be sought to be resolved by negotiations between designated senior executives of the Parties who have authority to settle the controversy. The disputing Party shall give the other Party written notice of the dispute. Within twenty (20) calendar days after receipt of said

notice, the receiving Party shall submit a written response to the disputing Party. The notice and response shall include (i) a statement of each Party's position and a summary of the evidence and arguments supporting its position and (ii) the name, title, address and phone number of the executive who will represent that Party. The executives shall meet at a mutually acceptable time and place within thirty (30) calendar days of the date of the disputing Party's notice and thereafter as often as they reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.

(b) If the dispute has not been resolved pursuant to clause (a) above within sixty (60) calendar days of the disputing Party's notice, or if the Party receiving said notice fails to name an executive that meets the above requirements within the twenty (20) day period specified, or either Party cannot or will not meet within the thirty (30) day period specified, either Party may proceed to take any and all actions available to it at law or in equity to resolve such dispute and to obtain any remedies available with respect thereto.

(c) If the senior executives are unable to resolve a dispute arising out of this Agreement, the Parties may, by mutual written agreement, submit the dispute to arbitration. Each Party shall submit a written statement detailing the nature of the dispute, designating the issue(s) to be arbitrated, identifying the provisions of this Agreement under which the dispute arose, and setting forth such Party's proposed resolution of such dispute. Within ten (10) days of the date the Parties' written agreement to submit a dispute to arbitration, a representative of each Party shall meet for purpose of selecting an arbitrator. Any arbitration proceeding shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association in effect on the date of the notice. The arbitrator shall be bound by the provisions of this Agreement where applicable, and shall have no authority to modify any terms and conditions of this Agreement in any manner. Unless otherwise agreed to by the Parties, the arbitrator shall render a decision within forty-five (45) days of the conclusion of the arbitration hearing, and shall notify the Parties in writing of such decision and the reasons supporting such decision. The arbitrator shall have no authority to award any damages inconsistent with the terms of this Agreement. The fees and expenses of the arbitrator shall be shared equally by the Parties, unless the arbitrator specifies a different allocation. All other expenses and costs of the arbitration proceeding shall be the responsibility of the Party incurring such expenses and costs. The existence, contents or results of any arbitration proceeding under this Section may not be disclosed without the prior written consent of all Parties; *provided, however*, that any Party may make disclosures as may be required to fulfill regulatory obligations to any agencies having jurisdiction. Unless otherwise agreed by the Parties, any arbitration proceedings shall be conducted in West Palm Beach, Florida. Any arbitral award issued in accordance with this Section shall be conclusive and binding on each Party.

SECTION 12 CONFIDENTIAL INFORMATION

Section 12.1 Non-disclosure. Each Party agrees to hold in confidence any information imparted to it by the other Party which pertains to Owner's or Operator's business activity in any manner, and which is not the subject of general public knowledge, including proprietary processes, technical information and know-how, management policies, economic policies, financial and other data and the like. This obligation shall continue to remain in full force and

effect during the Term of this Agreement and for two (2) years after the date of termination or expiration of this Agreement. The preceding non-disclosure requirements shall not apply to:

- (a) information furnished without restriction by one Party to the other prior to the Effective Date;
- (b) information in the public domain; or
- (c) information obtained by one Party from a third Person not under an obligation of non-disclosure to Owner or Operator, as the case may be.

Section 12.2 Disclosure to Government Agency. Either Party may disclose any such information to the extent that such Party is required by any Government Agency to make such disclosure. If a Party becomes legally compelled to disclose any of such confidential information, such Party shall provide the other Party with prompt notice so that the other Party may seek to obtain a protective order or other appropriate remedy.

SECTION 13 MISCELLANEOUS PROVISIONS

Section 13.1 Assignment. Except as expressly provided in this Section 13.1, the rights under this Agreement shall not be assignable or transferable nor the duties delegable by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; and nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the Parties and their permitted successors-in-interest and permitted assignees, any rights or remedies under or by reason of this Agreement unless so stated to the contrary.

Section 13.2 Entire Agreement and Amendments. This Agreement embodies the entire agreement between the Parties relating to the subject matter hereof. The Parties shall not be bound by or liable for any documents proposed or submitted prior to the date of this Agreement and not incorporated in this Agreement (by reference or otherwise), or for any statement, representation, promise, inducement or understanding of any kind or nature relating to the Services or any other matter covered by this Agreement which is not set forth or provided for herein. This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties. No changes, amendments or modifications of any of the terms or conditions of this Agreement shall be valid unless set forth in writing and signed by each of the Parties.

Section 13.3 Survival. Notwithstanding any provisions herein to the contrary, this Section and the obligations set forth in Sections 5, 6, 7, 8, 11, and 12 shall survive (in full force) the expiration or termination of this Agreement.

Section 13.4 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or such unenforceability and shall not invalidate the enforceable portions of such provision or the remaining provisions of this Agreement or affect the validity or enforceability of any such provision in any other jurisdiction. Except as otherwise provided for herein, the

remedies expressly afforded hereunder to Owner and Operator, respectively, are in addition to any other remedies provided at Law or in equity.

Section 13.5 Waiver. None of the provisions of this Agreement shall be considered waived by a Party unless such waiver is in writing and signed by such Party. No waiver shall be construed as a modification of any of the provisions of this Agreement or as a waiver of any default (present or future) hereunder or breach hereof, except as expressly stated in such waiver.

Section 13.6 Notices. All notices required or permitted under this Agreement shall be in writing and shall be sent by certified or registered mail, return receipt requested, overnight commercial delivery company or by email, to Owner or Operator, as the case may be, at their respective addresses set forth below, or to such other addresses as may be designated by notice given as herein required. All notices shall be effective upon first receipt as evidenced by written record of delivery or confirmation of transmission.

Owner: Central Electric Power Cooperative, Inc.
20 Cooperative Way
Columbia, South Carolina 29210
Attention: [●]
Telephone: [●]
E-Mail: [●]

Operator: NextEra Energy O&M Services, LLC
700 Universe Boulevard
Juno Beach, FL 33408-0428
Attention: Vice President, Operations
Telephone: (561) 691-2734
E-Mail: [●]

With a copy to: NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, FL 33408-0428
Attention: General Counsel
Telephone: (561) 691-7126
E-Mail: [●]

Section 13.7 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF SOUTH CAROLINA WITHOUT REGARD TO ITS CONFLICT OF LAWS PRINCIPLES.

Section 13.8 Further Assurances. If either Party reasonably determines that any further instruments or any other acts are necessary or desirable to carry out the terms of this Agreement, the other Party will execute and deliver all such instruments and assurances and do all such things as the first Party reasonably deems necessary or desirable to carry out the terms of this Agreement (at the cost of the first Party).

Section 13.9 No Third Person Rights. This Agreement is not for the benefit of any Person other than the Parties, and no other Person shall be deemed to be a third-party beneficiary hereof or entitled to any benefits hereunder.

Section 13.10 Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original.

[Rest of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Transmission Operation and Maintenance Agreement as of the date set forth above.

CENTRAL ELECTRIC POWER COOPERATIVE, INC.

By: _____
Name:
Title:

NEXTERA ENERGY O&M SERVICES, LLC

By: _____
Name:
Title:

APPENDIX A
FACILITIES

CONFIDENTIAL

APPENDIX H
Form of LSE Commitment¹⁶

¹⁶ Buyer and Seller to agree to the form of the LSE Commitment.

APPENDIX I

Forecasted Gypsum Costs¹⁷

Pursuant to Section 6.7, Seller will defer the annual actual incurred net expense that exceeds the annual net expense in Santee Cooper's forecast as outlined below.

	2021	2022	2023	2024
Annual Forecasted Net Expense (\$)	\$8,461,014	\$8,594,539	\$9,750,931	\$9,887,140

¹⁷ Subject to Seller providing a copy of the data room document 2.10.5

APPENDIX J

Interest Rate Adjustment

Seller's interest rate fluctuations between January 27, 2020, and the Effective Date will be managed through a rate adjustment mechanism which will account for the changes in 10-year U.S. Treasury yields between January 27, 2020, and the Effective Date.

The formula defines the overall average fuel surcharge adjustment across all applicable tariff schedules.

The interest rate fuel surcharge, in cents per kilowatt hour shall be calculated as:

$$\Delta r_i = \frac{D \cdot (r_{t_s} - r_{t_b}) \cdot 4 \cdot 100}{S_f}$$

Where:

D = total utility debt issued at close \cong \$2,670 million

S_f = forecast total system electricity sales in the first 48 months following the Closing Date in kWh

r_{t_b} = 10 – year U.S. Treasury Rate assumed in Buyer's Bid = 1.61%¹⁸

r_{t_s} = 10 – year U.S. Treasury Rate on the Execution Date

Δr_i = average fuel surcharge adjustment assessed across Rate Freeze Period in ¢/kWh

¹⁸ U.S. Department of Treasury 10-year Treasury Yield Curve, January 27, 2020