

DRAFT SUBJECT TO REVIEW

POWER PURCHASE AGREEMENT

BY AND BETWEEN

GUYANA POWER AND LIGHT INC.

- and -

[LICENSEE]

relating to

the power generation at [LOCATION OF COMPANY]

DATED AS OF [DATE OF AGREEMENT]

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This POWER PURCHASE AGREEMENT is entered into as of the ___ day of _____, 2023 in Georgetown, Guyana,

B E T W E E N:

(1) **GUYANA POWER AND LIGHT INC.** (“GPL”), a company duly incorporated under the Companies Act Cap. 89:01 of the laws of Guyana and having its registered office at Lot 40 Main Street, Georgetown;

and

(2) **[LICENSEE]** (the “Company”), a company duly organized under the laws of Guyana and having its registered office at [Address of Company].

Both GPL and the Company are herein referred to individually as a “Party” and collectively as the “Parties”.

W H E R E A S:

(A) The Company plans to design, finance, construct, own, operate and maintain a power generation facility (hereinafter referred to as “Facility”) with a net capacity of [megawatts] MW located in _____, Guyana (as further described in Schedule 6, the “Facility”); and

(B) The Company wishes to sell to GPL, and GPL wishes to purchase from the Company, the net capacity of the Facility and all of the Net Energy Output pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual benefits to be derived and the representations and warranties, conditions and promises herein contained, and intending to be legally bound hereby, the Company and GPL hereby agree as follows:

1. INTERPRETATION

1.1 In this Agreement:

1.1.1 Expressions defined in Schedule 1 shall bear the respective meanings set out therein;

1.1.2 The headings and paragraph numbering contained in this Agreement are for convenience only, do not constitute part of this Agreement and shall be ignored in construing this Agreement;

1.1.3 The gender of all words used herein shall include the masculine, feminine and neuter;

1.1.4 The singular includes the plural and vice versa;

- 1.1.5 References to Articles, Sections, Recitals, Preambles and Schedules are, unless the context otherwise requires, references to Sections of, and Schedules, the Preambles and Recitals to, this Agreement;
- 1.1.6 The terms “hereof”, “herein”, “hereto” and similar words refer to this entire Agreement;
- 1.1.7 References to any agreement, enactment, ordinance, or regulation includes any amendment thereof or any replacement in whole or in part;
- 1.1.8 Wherever the provisions of this Agreement require, provide for, or permit an approval, agreement or consent by either Party or to any action, person, document, or other matter contemplated by this Agreement, the following provisions shall apply:
- (a) such approval, agreement or consent shall not be unreasonably or arbitrarily withheld, conditioned, or delayed (unless otherwise specifically provided herein);
 - (b) the Party whose consent is being sought (the “Consenting Party”) shall, within the relevant time period set forth herein or, if no time period is specified, within five (5) Days, advise the other Party by notice either that it consents, agrees or approves or that it withholds its consent, agreement or approval, in which latter case it shall set forth, in reasonable detail, its reasons for withholding its consent, agreement or approval; provided that, if the Consenting Party shall fail to give the other Party the notice contemplated in this Clause 1.1.8(b), the relevant approval, agreement and consent shall be deemed consented to, agreed to or approved by the Consenting Party with no further action;
 - (c) if the responding notice mentioned in Clause 1.1.8(b) indicates that the Consenting Party does not approve, agree or consent, the other Party may take whatever steps may be necessary to satisfy the objections of the Consenting Party set out in the responding notice and, thereupon, may resubmit such request for approval, agreement or consent from time to time and the provisions of this Clause 1.1.8 shall again apply until such time as the approval or consent of the Consenting Party is finally obtained;
 - (d) if the disapproval or withholding of consent, agreement or approval mentioned in Clause 1.1.8(c) is subsequently determined to have been improperly withheld, conditioned, or delayed by the Consenting Party, such approval, agreement, or consent shall be deemed to have been given on the date on which such approval, agreement or consent was originally required; and
 - (e) for the avoidance of doubt, any dispute as to whether or not a consent, agreement or approval has been unreasonably withheld, conditioned, or delayed shall be resolved in accordance with the provisions of Clause 15.

- 1.1.9 References to any person shall be construed as a reference to such person's successors and permitted assigns;
- 1.1.10 References to "includes," "including" and similar phrases shall mean "including, without limitation";
- 1.1.11 In the event of any conflict between the body of this Agreement and any of the Schedules hereto and a complementary construction is not possible, then the terms and provisions of the body of this Agreement shall take precedence over the Schedules; and
- 1.1.12 Wherever the provisions of this Agreement require, provide for, or permit notice to be given "notice" shall mean five (5) Days written notification unless otherwise specified herein.

2. SALE AND PURCHASE OF ENERGY AND CAPACITY

2.1 Sale by the Company and Purchase by GPL

Subject to and in accordance with the terms of this Agreement, the Company shall make available and sell to GPL, and GPL, pursuant to its Licence, shall purchase from the Company for the consideration described herein, the Dependable Capacity and Net Energy Output of the Facility in accordance with the provisions of Schedule 2, during testing, commissioning and after the Commercial Operations Date. Title to, and risk of loss for, Net Energy Output shall pass from the Company to GPL at the Interconnection Point.

2.2 Sale by GPL and Purchase by the Company

Subject to, and in accordance with the terms of this Agreement and the applicable standard terms and conditions of contract governing the supply of electricity to GPL's customers, GPL shall make available and sell to the Company, and the Company may purchase from GPL, capacity, and energy, in accordance with applicable rate schedules, as determined by the Public Utilities Commission (hereinafter referred to as "the PUC"), for the purpose of project construction only.

3. TERM

3.1 Initial Term

The initial term of this Agreement shall commence on the Agreement Date and shall end on the third (3rd) anniversary of the Commercial Operations Date unless it is earlier terminated pursuant to the provisions of this Agreement. The termination of this Agreement shall be without prejudice to all rights and obligations of the Parties accrued under this Agreement prior to such termination.

4. PRE-OPERATION PERIOD FOR FACILITY

4.1 Permits and Licenses

The Company, at its sole cost and expense, shall acquire and maintain in effect all permits, licenses and approvals required by all governmental and local agencies, commissions, and authorities with jurisdiction over the Company and/or the Facility in order to enable it to perform its obligations under this Agreement including but not limited to the requirements of the Electricity Sector Reform Act, and the Environmental Protection Agency.

4.2 Submissions by the Company

Where applicable, the Company shall submit to GPL the documents listed in Clauses 4.2.1 through 4.2.20 below (“PPA Original Support Documents”) on or before the dates specified. In addition, the Company shall provide to GPL any document amending or otherwise modifying a PPA Original Support Document in a timely manner as such information is amended, modified, or superseded (all such amendments and modifications, “PPA Amended Support Documents”). Prior to executing or otherwise completing a PPA Original Support Document or PPA Amended Support Document referred to in Clauses 4.2.2, 4.2.3, 4.2.9 and 4.2.10, the Company shall obtain the written approval of GPL, which approval shall **not be unreasonably conditioned, withheld or delayed**. If GPL refuses its approval of any PPA Original Support Document or PPA Amended Support Document, GPL shall provide the Company with a written statement explaining in reasonable detail the basis for such refusal. Neither the receipt nor approval of any PPA Original Support Document or PPA Amended Support Document shall (i) relieve the Company of any liability, obligation or responsibility under this Agreement resulting from a breach by the Company of this Agreement, or (ii) be construed as an endorsement by GPL of the design, financing, construction, ownership, operation, or maintenance of the Facility nor as a warranty by GPL of the safety, durability, or reliability thereof. The documents to be submitted and specified dates are as follows:

- 4.2.1 On or before the Commencement of Construction, a notice indicating the Scheduled Commercial Operations Date.,
- 4.2.2 On or before the date being fifteen (15) Days prior to the Scheduled Commercial Operations Date, a copy of the Company’s proposed plan for the operation and maintenance of the Facility
- 4.2.3 As soon as available, but no later than five (5) Days prior to the Commencement of Construction, a copy of the Construction Contract entered into by the Company for the Facility, including all schedules, plans and specifications attached thereto, plus all amendments executed as of that date (but excluding the commercial terms of the Construction Contract);

- 4.2.4 As soon as available, but prior to the commencement of the relevant contract, copies of any contracts executed with Direct Contractors (but excluding the commercial terms of such contracts);
- 4.2.5 As soon as available but no later than twenty one (21) Days prior to the Scheduled Commercial Operations Date, copies of all permits, licenses, approvals and other governmental authorizations and relevant concessions that have been issued to the Company for the design, financing, construction, ownership, operation and maintenance of the Facility; provided that where the Company has failed to receive any permit, licence, approval or other governmental authorization for the design, financing, construction, ownership, operation and/or maintenance of the Facility, the Company shall, as soon as such failure has arisen but no later than twenty one (21) Days prior to the Scheduled Commercial Operations Date, notify GPL of its failure to receive any such permit, licence, approval or other governmental authorization;
- 4.2.6 Beginning seven (7) Days after the Agreement Date and ending on the Scheduled Commercial Operations Date, weekly progress reports including results of any tests performed set forth in Schedule 3;
- 4.2.7 As soon as available but not later than five (5) Days after the Agreement Date, general arrangement drawings for the construction of the Facility;
- 4.2.8 Not later than fifteen (15) Days prior to the scheduled commencement of testing and Commissioning of the Facility, a start-up and test schedule for such Commissioning, including, without limitation, appropriate milestone dates for such start-up and testing. GPL shall, within five (5) days of receipt of same, respond in writing to the Company with its approval or objections, as the case may be. In the event of objections, the Parties shall thereafter make every effort to have the Commissioning Schedule agreed no later than five (5) days prior to the Scheduled Commercial Operations Date.,
- 4.2.9 Not later than ten (10) Days prior to the Scheduled Commercial Operations Date, a copy of draft written operating procedures to serve as the basis for the written Operating Procedures to be jointly developed pursuant to Clause 4.3;
- 4.2.10 Not later than ten (10) Days after the date of purchase of the relevant insurance policy, copies of all certificates of insurance required to be obtained as of the Agreement Date pursuant to Section 11, together with **prompt submission of** all amendments executed **subsequent to the Agreement Date**;
- 4.2.11 As soon as available but not later than fifteen (15) Days after the Commercial Operations Date, a certificate signed by the Company's engineer stating that he has supervised the design and construction of the Facility in accordance with the terms of this Agreement, plant design and construction specifications (including the Minimum Functional Specifications) and the facility has been completed consistent

with this Agreement, the applicable codes, standards, regulations, the Construction Contract, Prudent Utility Practice, and that the Facility is designed and constructed to have a useful life of at least ten (10) Years;

- 4.2.12 As soon as available but not later than two (2) Days after the Commercial Operations Date, copies of all test results for tests performed on the Facility;
- 4.2.13 As soon as available but not later than ten (10) Days after the Commercial Operations Date, as-built drawings, and complete specifications for the Facility; and
- 4.2.14 Whereby this Agreement the Parties or any one of them is required to perform any act or fulfill any obligation during the Pre-Operation Period within a specified time and for any reason whatsoever that party cannot perform within the time stated, then that party may request in writing an extension of the time for performance. Requests for extensions of time shall be given due and reasonable consideration and may be granted on such terms and conditions as the Parties may agree.

4.3 Operating Procedures

- 4.3.1 The Company and GPL shall jointly develop and agree on written operating procedures for the Facility no later than three (3) Days prior to the Scheduled Commercial Operations Date (the "Operating Procedures"). Such Operating Procedures shall: (i) be based on, but not limited to, the design of the Facility, the Interconnection Facilities and the GPL Grid and on the draft procedures provided by the Company pursuant to Clause 4.2.11; (ii) be consistent with the Minimum Functional Specifications; and (iii) deal with all operational interfaces between GPL and the Company, including, but not limited to, the method of communication, key personnel lists, forced outage reconciliation, clearances and switching practices, safety rules and procedure, environmental practices, outage scheduling, capacity and energy reporting, Unit operations log, Spinning Reserve and Reactive Power support. The Operating Procedures shall be subject to the prior written consent of GPL, which consent shall not be unreasonably conditioned, withheld or delayed.
- 4.3.2 The Company and GPL shall jointly develop an Interconnection Tripping Schedule no later than fifteen (15) Days prior to the Scheduled Commercial Operations Date. **In developing such** Interconnection Tripping Schedule, **due consideration** shall be **given to** the proposed Interconnection Tripping Schedule provided by the Company pursuant to Clause 4.2.12 and shall be subject to the prior written approval of GPL, which approval shall not be unreasonably conditioned, withheld or delayed.

4.4 Energy before Commissioning of the Facility

- 4.4.1 Upon the Company's request, GPL shall provide electricity supply for the construction, testing, and Commissioning of the Facility, subject to availability and

GPL's ability to deliver such supply to the Facility. The Company shall pay GPL for such supply pursuant to Clause 2.2.

4.4.2 Prior to the Commercial Operations Date, GPL shall use reasonable efforts to accept all energy produced by the Facility during testing and Commissioning of the Facility and GPL shall pay the Company for such energy at the rate set forth in Clause 9.2.1. For the avoidance of doubt, electrical energy and capacity from the Facility prior to the Commercial Operations Date shall not be deemed to be Dependable Capacity or Net Energy Output from Dependable Capacity, hereunder with respect to the Facility; provided, however, that such electrical energy produced by the Facility shall be considered (i) Net Energy Output for purposes of determining the **payment** by GPL for such energy and (ii) Dependable Capacity for purposes of completing the tests set forth in Schedule 3. GPL shall not be liable to **make** Fixed Payments prior to the Commercial Operations Date.

4.5 Deemed Commissioning

In the event that GPL does not accept energy produced by the Facility during the scheduled Commissioning of the Facility in breach of this Agreement (and, for avoidance of doubt, expressly excluding GPL's inability or refusal to accept such energy due to the occurrence of an event of Force Majeure, an Emergency or a Company Event of Default), and as a result the Commissioning of the Facility is delayed for more than fourteen (14) Days from the scheduled date, then, pending actual testing and upon receipt of a certificate from the Independent Engineer to the effect that the Facility is ready for testing and Commissioning, the Facility shall be deemed to be providing Dependable Capacity equivalent to [input MEGAWATTS] MW for the purposes of Fixed Payments to be made by GPL pursuant to Clause 9.1.

(a) the Company shall not be liable for the payment of liquidated damages in accordance with Clause 9.4.1 for the number of days equivalent to the period commencing on the Day the Facility was deemed Commissioned in accordance with this Clause 4.5 and ending on the earlier of (i) the Day after which the Commissioning Tests are carried out, or (ii) fourteen (14) Days after the Day on which GPL notifies the Company that it is ready and able to accept the energy produced by the Facility during Commissioning ("Delay Period"),

(b) the period stated in Clause 14.1.4 shall be extended by the number of Days equivalent to the Delay Period, and

(c) the period specified in Schedule 4 for the additional Commissioning tests shall be extended by the number of Days equivalent to the Delay Period.

The Company shall be entitled to no penalty or claim for damages as a result of such delay. If the Facility shall have been deemed Commissioned as provided in this Clause 4.5 and thereafter when tested shall have failed to satisfy the requirements of Schedule 3, then the Facility shall cease to be deemed Commissioned until such time as the Facility shall have

successfully completed the tests referred to in Schedule 3, and no Fixed Payments shall be due to the Company in respect thereof for the period from the date on which the Facility shall have been tested and failed to satisfy the requirements of Schedule 3 until the date on which the Facility shall have been tested and satisfied the requirements of Schedule 3; provided that, if the Facility shall have been deemed Commissioned, the Facility shall be tested at the first available opportunity after such deemed Commissioning. The Facility shall not be deemed Commissioned to the extent that the delay in the program or tests would have nevertheless occurred regardless of GPL's actions or inactions.

4.6 Inspection

Upon reasonable prior notice from GPL to the Company, GPL and/or its representatives shall have the right to observe the progress of the construction, testing and Commissioning, **operation, and maintenance** of the Facility. Such visits to the Site shall not be construed as an endorsement by GPL of the design of the Facility nor as a warranty by GPL of the safety, durability, or reliability of the Facility.

5. WARRANTIES AND COVENANTS

5.1 Representations and Warranties of the Company

The Company warrants to GPL that:

- 5.1.1 The Company is duly organized, validly existing and has complied in all material respects with the requirements of the Laws of Guyana;
- 5.1.2 The Company has full power to carry on its business and to enter into, legally bind itself by, and perform its obligations under this Agreement and the other agreements comprising the Material Agreements;
- 5.1.3 This Agreement has been duly authorized, executed, and delivered by the Company and constitutes its legal, valid and binding obligation;
- 5.1.4 The execution, delivery, and performance of this Agreement and each Material Agreement **to which the Company is a party** does not (a) constitute a material violation of (i) the Laws of Guyana or any other law, statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator of competent jurisdiction enforceable against or binding upon the Company, its assets or its businesses, or (ii) the Company's organic documents or any indenture, contract or agreement to which it is a party or by which it or its property may be bound, or (b) require any consent, approval, or authorization of, or filing or registration with, or notice to, any governmental authority or other person or entity, except for the consent of the Company's senior lenders;

- 5.1.5 There are no outstanding judgments against the Company, and, to the best knowledge of the Company, no action, claim, suit or proceeding is pending or threatened against the Company before any court, governmental authority or arbitrator of competent jurisdiction that could reasonably be expected to affect materially and adversely the financial condition or operations of the Company or the ability of the Company to perform its obligations under this Agreement or any other Material Agreement or which purports to materially affect the legality, validity or enforceability of this Agreement or any other Material Agreement;
- 5.1.6 The Company, to the best of its knowledge, is not in material breach of any agreement to which it is a party or by which it or its property may be bound, nor in any material default of any technical or financial obligation, which could have a material adverse effect on the ability of the Company to perform its obligations under this Agreement or any other Material Agreement; and
- 5.1.7 No information given by the Company in relation to this Agreement, any Material Agreement, or in the Proposal submitted by the Company (a) contains any material misstatement of fact which would be materially adverse to the enforcement of the rights and remedies of GPL or (b) omits to state a fact which would be necessary to make any statement, representation or warranty contained herein or therein true and correct.

5.2 Representations and Warranties of GPL

GPL warrants to the Company that:

- 5.2.1 GPL is duly formed, validly existing and has complied in all material respects with the applicable Laws of Guyana;
- 5.2.2 GPL has full power to carry on its business and to enter into, legally bind itself by, and perform its obligations under, this Agreement and the other Material Agreements (to which GPL is a party);
- 5.2.3 This Agreement has been duly authorized, executed, and delivered by GPL and constitutes its legal, valid, and binding obligation;
- 5.2.4 The execution, delivery, and performance of this Agreement and each Material Agreement (to which GPL is a party) does not (a) constitute a material violation of (i) the Laws of Guyana or any other law, any statute, judgment, order, decree or regulation or rule of any court, governmental authority or arbitrator of competent jurisdiction enforceable against or binding upon GPL, its assets or its businesses, or (ii) the Articles of Incorporation or other organic documents or, to the best knowledge of GPL, any indenture, contract or agreement to which it is a party or by which it or its property may be bound, or (b) require any consent, approval, or authorization of,

or filing or registration with, or notice to, any governmental authority or other person or entity;

- 5.2.5 There are no outstanding judgments against GPL, and, to the best knowledge of GPL, no action, claim, suit, or proceeding is pending or threatened against GPL before any court, governmental authority or arbitrator of competent jurisdiction that could reasonably be expected to affect materially and adversely the ability of GPL to perform its obligations under this Agreement or which purports to affect the legality, validity, or enforceability of this Agreement;
- 5.2.6 GPL, to the best of its knowledge, is not in material breach of any agreement to which it is a party or by which it or its property may be bound, nor in any material default of any technical or financial obligation, which could have a material adverse effect on the ability of GPL to perform its obligations under this Agreement; and
- 5.2.7 No information given by GPL in relation to this Agreement (a) contains any material misstatement of fact which would be materially adverse to the enforcement of the rights and remedies of the Company or (b) omits to state a fact which would be necessary to make any statement, representation or warranty contained herein true and correct.

5.3 Covenants of the Company

The Company hereby covenants as follows:

- 5.3.1 The Company shall design, finance, construct, own, operate and maintain the Facility in accordance with this Agreement, the Minimum Functional Specifications, the Operating Procedures, and, where applicable, the relevant environmental guidelines and occupational health and safety standards of Guyana, and all laws, rules, regulations, standards, codes, orders, directives, and ordinances that are enforceable against or binding upon the Company;
- 5.3.2 The Company shall Commission the Facility on or before the Required Commercial Operations Date;
- 5.3.3 The Company shall operate and maintain the Facility in such a manner so as not to adversely affect GPL's distribution of electricity, including but not limited to adverse effects on GPL's voltage level or voltage waveform, power factor and frequency or produce adverse levels of voltage flicker and/or voltage harmonics;
- 5.3.4 The Company shall, in accordance with Prudent Utility Practices, the Minimum Functional Specifications and any existing Grid Code, install protective relays within the Facility and/or the Interconnection Facilities, having ratings and characteristics approved by GPL, which approval shall not be unreasonably conditioned, withheld or delayed, and shall maintain the settings of all such relays at the level acceptable to

GPL. The Company shall not change the settings of such relays without the prior written approval of GPL, which approval shall not be unreasonably conditioned, withheld or delayed.

6. OPERATION AND MAINTENANCE OF THE FACILITY

6.1 Dispatch by GPL

6.1.1 GPL shall have the right to Dispatch the Facility from the Commercial Operations Date up to the full Dependable Capacity thereof in accordance with the provisions of this Clause 6.1, and Scheduled Outages, Maintenance Outages, and the Minimum Functional Specifications (see Schedule 8 for further details).

6.1.2 At least ten (10) Days **prior to the Scheduled Commercial Operations Date (in respect of the Year in which the Commercial Operations Date occurs)**, GPL shall provide to the Company a projected System Load Profile, indicating the anticipated dispatch level for the Facility after the Commercial Operations Date. At least five (5) Days prior to the Scheduled Commercial Operations Date **(in respect of the Year in which the Commercial Operations Date occurs)**, the Company shall review the **projected System Load Profile from GPL and shall submit to GPL its required maintenance for the fourteen (14) Day period commencing on the Commercial Operations Date**. The first Thursday after the Commercial Operations Date, and each Thursday thereafter, the Company shall deliver to GPL the projected availability of the Facility for the forthcoming fortnight ("Proposed Fortnightly Availability") together with the actual accumulated Unit Running Hours (as at 12:00 a.m. on the said Thursday) for each Unit, by 5:00 p.m. It is expressly recognized that GPL is not obligated to request any Net Energy Output.

6.1.3 Subject to the Minimum Functional Specifications, the Grid Code and approved Scheduled Outages and Maintenance Outages, GPL shall have the right to request, and the Company shall deliver, Reactive Power free of charge from the Facility after the Commercial Operations Date.

6.1.4 Commencing on the Commercial Operations Date, if Spinning Reserve is applicable, the Company will not be liable for liquidated damages caused by deviations in attaining Dispatch directly caused by the Facility satisfying the Spinning Reserve requirement.

6.1.5 Commencing on the Commercial Operations Date, in the event that the Company is requested by the Control Centre to use any available capacity from the dispatched Units to satisfy frequency controlled Spinning Reserve, this request shall be complied with until the Control Centre advises the Facility that the Spinning Reserve is no longer required. The Company will not be liable for liquidated damages caused by deviations in attaining Dispatch directly caused by the Facility complying with the Spinning Reserve request. For the avoidance of doubt, **any** exemption from

liability for liquidated damages to which the Company shall become entitled as per the above, shall cease to apply immediately upon the Control Centre advising the Facility to discontinue providing frequency controlled Spinning Reserve.

6.2 Operation by the Company

6.2.1 The Company shall control and operate the Facility from the Commercial Operations Date in accordance with GPL's Dispatch instructions.

6.2.2 Commencing on the Commercial Operations Date, the Company shall keep the Control Centre informed as to the current capability of the Facility and shall immediately advise the Control Centre of any change in such capability.

6.3 Scheduled Outages

6.3.1 At least ten (10) Days prior to the Scheduled Commercial Operations Date, GPL shall submit to the Company its **Annual Projected Capacity Factor** for the following Year, assuming one hundred percent (100%) availability of the Facility. Thereafter, by **[Date to be agreed]** of each Year, GPL shall submit to the Company its **Annual Projected Capacity Factor** for the following Year. At least seven (7) Days prior to the Scheduled Commercial Operations Date the Company shall submit to GPL its desired schedule of Scheduled Outage periods for the following Year. Thereafter, by **[Date to be agreed]** of each Year, the Company shall submit to GPL its desired schedule of Scheduled Outage periods for the following Year, **such schedules to incorporate the corresponding Annual Projected Capacity Factor provided by GPL and** details of the Unit outage start and end dates and times. The Parties agree that the failure of the Company to receive the Annual Projected Capacity Factor from GPL more than (i) ten (10) Days prior to the Scheduled Commercial Operations Date **(in respect of the Year in which the Commercial Operations Date occurs)** and (ii) **[Date to be agreed]** of each Year occurring after the Commercial Operations Date **(in respect of such Year)**, shall not prohibit the Company from delivering the Schedule Outage periods to GPL in accordance with this Clause 6.3.1.

6.3.2 At least five (5) Days prior to the Scheduled Commercial Operations Date and at least two (2) Months prior to the commencement of each subsequent Year, GPL shall provide the Company with any proposed modifications to the schedule of Scheduled Outage periods. **Any such proposed modifications** shall be as close as reasonably practicable to the requested period, shall comply with the Minimum Functional Specifications, and shall not exceed the duration of the initial requested period. The Company shall notify GPL in writing within thirty (30) Days of receiving any proposed modifications to the schedule of Scheduled Outage periods of whether it accepts or rejects such proposed modifications, providing reasons for the rejection. In the event that the Company rejects the proposed modifications, the

Company and GPL shall within the subsequent thirty (30) Day period use their best efforts to devise mutually agreeable Scheduled Outage periods for the upcoming Year. **If GPL does not respond at least two (2) weeks prior to the commencement of each subsequent Year, then it will be deemed to have accepted the proposed schedule of Scheduled Outage periods as prepared by the Company. The Company shall use reasonable efforts to reschedule such Scheduled Outages as requested by GPL so long as they do not present a material risk to the operation of the Facility.**

6.3.3 **During each Year, commencing with the Year in which the Commercial Operations Date occurs,** the Company may not schedule more than a total of **[Hours to be agreed]** Unit Hours of Scheduled Outages for the Facility; provided that in the event that the Commercial Operations Date does not occur at the beginning of a Year this quantity of Unit Hours of Scheduled Outages shall be pro-rated evenly over that Year. Notwithstanding the foregoing, within the **[No. of years for major maintenance as per OEM]** Year after the Commercial Operations Date and each **[No. of years for major maintenance as per OEM]** Year thereafter, the Company shall be permitted to schedule a total of **[Input Number of Unit Hours of Scheduled Outages]** Unit Hours of Scheduled Outages for the Facility; provided that the Company makes such requests in accordance with **Clause 6.3.1**, in the Year prior to the Year in which the **Scheduled Outages periods will be scheduled**. In the event that the third anniversary date of the Commercial Operations Date does not occur at the end of a Year the applicable quantity of Unit Hours of Scheduled Outages for the Year in which the third anniversary date of the Commercial Operations Date occurs shall be pro-rated evenly over that Year.

6.3.4 (a) **For a multi-unit generator Facility, the Company may schedule no more than one (1) Scheduled Outage for each Unit in each Peak Month; provided that there shall be no more than one Unit scheduled for a Scheduled Outage at any one time. Each such Scheduled Outage may continue for a maximum of [no. of hours to be agreed] consecutive hours. GPL may designate new Peak Months by giving notice to the Company at least three (3) Months prior to the date by which the Company must submit its proposed schedule of Scheduled Outage periods pursuant to Clause 6.3.1; provided that, if GPL designates five (5) Months or more each Year as Peak Months, the Company shall be permitted to schedule Scheduled Outages for [Portion of Total Facility to be agreed] Units, such Scheduled Outages to be taken together or separately, at any given time during Months other than Peak Months, so long as (i) Scheduled Outages are in accordance with Clause 6.3.3, and (ii) the combined capacity of such Unit(s) does not exceed [Portion of Total Facility to be agreed] MW. GPL shall not designate more than two (2) consecutive Months as Peak Months without the prior written consent of the Company. Except as provided herein, under no circumstances shall the Company be permitted to schedule Scheduled**

Outages for more than one (1) Unit at any given time without obtaining the prior written consent of GPL.

- (b) Notwithstanding Clause-6.3.4(a), upon any **[No. of Units to be agreed]** Unit reaching a Major Maintenance, GPL with due consideration of the maintenance cycle of such Unit, may consent, such consent not to be unreasonably withheld, to Scheduled Outages for **[No. of Units to be agreed]** Units, such Scheduled Outages to be taken together or separately, so long as (i) such Scheduled Outages are **in accordance with Clause 6.3.3**, (ii) the combined capacity of such Units does not exceed **[Portion of Total Facility to be agreed]** MW, (iii) the Company provides GPL with written notification within two (2) Business Days upon the Unit reaching within **[No. of Hours to be Agreed]** Unit Running Hours of Major Maintenance, and (iv) the Scheduled Outages occur between the Unit achieving more than **[Input Range Of Major Maintenance Unit Running Hours]** Unit Running Hours. GPL shall provide the Company with five (5) Days notification prior to the actual date of the Scheduled Outages. Except as provided herein, under no circumstances shall **the Company schedule Scheduled Outages for more than [Portion of Total Facility to be agreed] MW at any given time.**

6.3.5 GPL may, upon three (3) Days' prior written notice, require the Company to reschedule a Scheduled Outage; provided that GPL shall not request that such Scheduled Outage be rescheduled in manner or time inconsistent with the Minimum Functional Specifications.

6.3.6 GPL shall use its reasonable efforts to coordinate its maintenance program with the approved Scheduled Outages so as to minimize any disruption to the operation of the Facility.

6.4 Maintenance Outages

When the circumstances warrant a Maintenance Outage, the Company may advise GPL of such circumstances and of the proposed commencement and estimated duration of the Maintenance Outage. GPL may, in its sole discretion, grant the Company the right to schedule and conduct such Maintenance Outage at a time acceptable to GPL. In the event that any such granted Maintenance Outage is required to be rescheduled then GPL shall use its reasonable effort to provide a new rescheduled time within three (3) Days. If the rescheduled Maintenance Outage is carried out, then the outage hours shall be deducted from the allotted Scheduled Outage hours for the Year.

6.5 Emergencies

6.5.1 No less than ten (10) Days prior to the Commercial Operations Date, GPL and the Company shall jointly establish plans in writing for operating the Facility during an Emergency in accordance with Schedule 10. Such plans shall include, without

limitation, recovery from a local or widespread electrical blackout and voltage reduction in order to effect load curtailment.

- 6.5.2 During an Emergency and upon the receipt of Dispatch instructions from GPL, the Company shall supply such power as the Facility is able to generate within the Minimum Functional Specifications. If any Unit has a Scheduled Outage or a Maintenance Outage and such Scheduled Outage or Maintenance Outage occurs or would occur coincident with an Emergency, the Company shall use its best efforts to reschedule the Scheduled Outage or Maintenance Outage in accordance with the terms of this Agreement, or, if the Scheduled Outage or Maintenance Outage has begun, to expedite the completion of the work to restore the Unit as soon as possible.
- 6.5.3 During an Emergency, GPL shall use all reasonable efforts to expedite the completion of work to restore power supply as soon as possible.
- 6.5.4 The Facility shall operate within the voltage and frequency limits as set out in the National Grid Code. The Company shall promptly thereafter notify GPL of its decision to isolate itself from the system and the reasons therefor. GPL shall notify the Company of the cause of the abnormal or contingency conditions promptly after such cause is known and if they are continuing, the estimated time that normality will return.

6.6 Fuel Supply

- 6.6.1 GPL shall supply the required amount of HFO (fuel) to the Facility.
- 6.6.2 Prior to the Commercial Operations Date, the Company, at its sole cost and expense, shall construct or secure adequate Fuel handling facilities with the capability to allow operation of the Facility at full load. The Company shall put in place storage and delivery arrangements for Fuel to allow for [**Amount (Number)**] Days operation of the facility at full load without delivery (the "Required Fuel Storage Capacity"). In the event that the Company fails to maintain the Minimum Fuel Inventory, the Company shall promptly notify GPL of such shortage in Fuel Inventory. The Company shall maintain such facilities in accordance with Prudent Utility Practice throughout the term of this Agreement.

6.7 Operating Committee

The Parties shall establish an Operating Committee comprising four (4) members. The Company and GPL shall each appoint two (2) of the four (4) members. The Company shall appoint the first chair of the Operating Committee, GPL shall appoint the second chair, and the Parties shall then alternate with respect to subsequent appointments. Each chair shall serve for a term of six (6) Months, with the first term commencing on the Commercial Operations Date. The obligations

and responsibilities of the Operating Committee and the rules governing meetings of the Operating Committee shall be as set forth in Schedule 7.

6.8 Operating Personnel

6.8.1 The Company shall ensure that qualified personnel operate and monitor the Units and the Facility and coordinate operations of the Units and the Facility with the GPL Grid and are on duty at the Facility at all times, seven (7) Days a Week commencing on the date fourteen (14) Days prior to the Commercial Operations Date. The Company shall ensure that at all times during the operation of the Facility all skilled and unskilled labourers operate under the direct supervision of qualified and experienced personnel.

6.8.2 The Company may appoint an O&M Contractor(s) to operate and maintain the Facility throughout the term of this Agreement. No such appointment shall relieve the Company of any liability obligation or responsibility whatsoever resulting from a breach of this Agreement.

6.9 Inspections and Records

6.9.1 GPL shall have the right, at its sole cost and expense, to visit, observe and examine any Unit and/or the Facility and/or the operation thereof upon reasonable advance notice to the Company, for the purpose of facilitating the technical operation and administration of this Agreement. Such visits and observations shall not be construed as an endorsement by GPL of the design or operation of the Facility nor as a warranty by GPL of the safety, durability, or reliability of the Facility and shall not give rise to any liability on the part of GPL under this Agreement, save and except where damage and/or loss is caused by the negligence of GPL or its agents.

6.9.2 In the event that any GPL representative desires to enter the Facility, such persons shall be competent and duly authorized persons who are adequately equipped with the necessary personal protective equipment and safety training and shall at all times adhere to the reasonable instructions and directions of the Company's representatives. GPL reserves the right to review the company emergency plans which include but not limited to safety records.

6.9.3 The Company shall have the right, at its sole cost and expense, to visit and observe the components of the Interconnection Facilities that are controlled by GPL, or the operation thereof upon reasonable prior notice to GPL.

6.9.4 Each Party, at its sole cost and expense, shall keep complete and accurate records and all other data **reasonably** required by each of them for the purposes of proper administration of this Agreement. Among other records and data, the Company shall maintain **at the Facility** an accurate and up-to-date **operations log as per the request of GPL**.

6.9.5 **During** the period such records and data are required to be maintained, **each Party shall** have the right, upon reasonable prior written notice to the other Party, at its sole cost and expense, to examine and/or make copies of the records and data of the other Party relating to this Agreement at any time during normal office hours. All such records shall be maintained for a minimum of twenty-four (24) Months after the creation of such records or data and for any additional length of time required by regulatory agencies with jurisdiction over the Parties. Upon expiration of such twenty four (24) Month period **(or additional term as required by any applicable regulatory agency where such term shall not be less than twenty four (24) Months)**, neither Party shall dispose of or destroy any such records without thirty (30) Days' prior written notice to the other Party, and the Party receiving such notice may receive such records in lieu of such disposal or destruction prior to the expiration of the thirty (30) Day period **and paying for any costs and expenses associated with such transfer of records.**

7. INTERCONNECTION

7.1 GPL Responsibilities

7.1.1 The Company shall be responsible for the design, financing, construction, installation, and commissioning of the 69kV Interconnection Facilities including the Primary Metering System, Backup Metering System, and all auxiliary and interconnecting equipment in accordance with the terms of this Agreement, Prudent Utility Practice and all applicable laws, rules, regulations, standards, codes, orders, directives and ordinances. The design, construction and installation of the Interconnection Facilities shall be subject to the written approval of GPL, which approval shall not be unreasonably conditioned, withheld or delayed. The Company shall transfer the interconnection equipment on the GPL side of the Interconnection Point to GPL for ownership, operation, and maintenance.

7.1.2

7.1.3 After the Commercial Operations Date, GPL shall be responsible for (a) the operation and maintenance of the Primary Metering System, (b) the operation and maintenance of the auxiliary and interconnecting equipment on the GPL side of the Interconnection Point and (c) coordination of switching operations of the Interconnection Facilities, all in accordance with the terms of this Agreement, the Operating Procedures, Prudent Utility Practice and all applicable laws, rules, regulations, standards, codes, orders, directives and ordinances..

7.1.4 Unless otherwise stated in this Agreement, after the Commercial Operations Date GPL shall own, operate and maintain the GPL Interconnection Facilities and shall effect and maintain its connection to the GPL Grid.

7.1.5 On or before the date of this Agreement, GPL shall provide to the Company the

Interconnection Criteria, which shall include all necessary GPL interconnection criteria for the Company to design and establish settings of the Interconnection Facilities for the Facility. The Interconnection Criteria shall include [Voltage Level] kV grid operations parameters for the performance, controls, protection, and fault clearing for the Facility. GPL shall, within fourteen (14) Days of receiving the said design and settings of the Interconnection Facilities for the Facility, inform the Company in writing of its approval, which approval shall not be unreasonably conditioned, withheld or delayed, and such approval shall not constitute the making of any representation or warranty of whatsoever kind by GPL and shall not operate to increase the liability of GPL hereunder.

7.2 Company Responsibilities

7.2.1 The Company shall be responsible for operating and maintaining (a) the Backup Metering System and (b) all auxiliary and interconnecting equipment on the Company's side of the Interconnection Point in accordance with the terms of this Agreement, the Operating Procedures and the other Agreement Criteria; provided that GPL shall have overall responsibility for coordinating the switching operations of the Interconnection Facilities and such auxiliary and interconnecting equipment, and the Company shall cooperate with GPL to assure the safe and reliable operation of such facilities and equipment.

7.2.2 Within fifteen (15) Days from its receipt of the Interconnection Criteria, the Company shall provide to GPL, for its review and approval, the design, and settings of the Interconnection Facilities.

7.2.3 Prior to initial synchronization of the Facility, the Interconnection Facilities shall be tested at the sole cost and expense of GPL, in the presence of Company as provided in Schedule 3.

7.2.4 After the Commercial Operations Date, the Company shall permit GPL such access to the Facility as GPL shall reasonably require in order to conduct inspection and testing of the Interconnection Facilities on the Company's side of the Interconnection Point. Notwithstanding, the Company shall permit GPL and/or its contractors and/or agents to have such access to such locations under the Company's control including the Company's substation necessary to facilitate access by GPL to the GPL side of the Interconnection Point as GPL and/or its contractors and/or agents shall require solely for the purpose of maintenance and operation of the GPL Interconnection Facilities.

7.3 Protective Devices

7.3.1 The Company's Interconnection Facilities shall be connected to the GPL Grid or system by means of suitable switchgear and protective devices.

- 7.3.2 Each Party shall notify the other Party in advance of any changes to either (i) the Facility or (ii) the GPL Grid that may affect the proper coordination of protective devices between the two systems.
- 7.3.3 The Company shall not disable or otherwise change or modify any protective equipment in its Interconnection Facilities or change or modify the operation or settings thereof without first requesting and receiving the approval in writing of GPL, which approval shall not be unreasonably conditioned, withheld or delayed.
- 7.3.4 Subject to giving the Company reasonable notice, GPL may reasonably require the Company to modify or expand the protective devices in the Facility and the Company's Interconnection Facilities. The Company shall, at its own cost and expense, effect any reasonable change or modification to the protective devices in accordance with Clause 7.3.2 provided that such modification or expansion is within the requirements specified in Schedules 2 and 3 hereto and the Interconnection Criteria and the Agreement Criteria otherwise the cost and expense shall be shared equally by the Parties.

8. METERING AND TELECOMMUNICATIONS

8.1 Ownership of Metering Equipment

- 8.1.1 GPL shall design, finance, construct, install and commission the Primary Metering System and shall own, operate, and maintain the Primary Metering System in accordance with Schedule 5.
- 8.1.2 The Company shall design, finance, construct, install, Commission, own, operate and maintain the Backup Metering System pursuant to Schedule 5.
- 8.1.3 The metering points for both the Primary and Backup Metering System shall be at the high voltage side of the Company's step-up transformer that connects to the GPL Grid.

8.2 Testing and Inspection of the Metering System

Testing, inspection, repair, recalibration and replacement of the Metering System and Backup Metering System shall be performed by the Parties in accordance with Schedule 5.

8.3 Measurement of Net Energy Output and Dependable Capacity

- 8.3.1 On the Commercial Operations Date and each Month thereafter, GPL shall read the Primary Metering System for the purpose of measuring the Net Energy Output and Dependable Capacity of the Facility **in accordance with the provisions of Schedule 5**. If GPL obtains readings remotely, GPL shall make copies of the reading produced by the device which initiates the reading protocol and provide a copy of such reading

to the Company on the Day of such reading. GPL shall provide details of the reading protocol and/or remote reading procedures to the Company. If GPL conducts a physical reading of the Primary Metering System, it shall permit a representative of the Company to witness and verify such reading; provided, however, that the failure of the Company to send a representative to witness any such reading shall not affect the validity of such inspection or test or reading.

- 8.3.2 If the Primary Metering System is found to be inaccurate or functioning improperly, GPL shall read the Back-up Metering System, in accordance with the provisions of Schedule 5 for the purpose of measuring the Net Energy Output and Dependable Capacity of the Facility.
- 8.3.3 In the event that the Primary Metering System and the Back-up Metering System are found to be inaccurate or functioning improperly, the correct amount of Net Energy Output delivered to GPL during the period for which inaccurate measurements were made shall be determined in accordance with Schedule 5. The difference between the previous payments by GPL for the period of inaccuracy and the recalculated amount shall be offset against or added to the next payment to the Company under this Agreement, as appropriate; **provided, however, that if there are no scheduled future payments, then the Company or GPL, as the case may be, shall pay the other Party the adjustment amount within thirty (30) Days.** In no event, however, shall any such adjustment be made for any period prior to the date on which the Primary Metering System was last tested and found to be accurate within plus or minus [METER ACCURACY] percent ([METER ACCURACY] %) and not otherwise functioning improperly.
- 8.3.4 Within fourteen (14) Days after (a) the first (1st) anniversary of the Commercial Operations Date and (b) the end of each six (6) Month interval thereafter, the Company shall perform, at its sole cost and expense, a test of the Dependable Capacity in accordance with the provisions of Schedule 3 for the purpose of measuring the Dependable Capacity.

8.4 Telecommunications

The Company shall provide, at its sole cost and expense, the telecommunications equipment specified in Schedule 5. The selection and installation of items to be provided by the Company in accordance with this Clause 8.4 shall be subject to the prior written approval of GPL, which approval shall not be unreasonably conditioned, withheld or delayed.

9. COMPENSATION, PAYMENT, AND BILLING

9.1 Fixed Payment

- 9.1.1 Beginning with the Day immediately following the Commercial Operations Date, GPL shall pay to the Company Monthly, in arrears, an amount, as calculated and

adjusted in accordance with this Clause 9.1 and Schedule 2, equal to the Fixed Payment.

9.1.2 If the Commercial Operations Date shall occur on a Day other than the first (1st) Day of a Month or if the Dependable Capacity shall be tested on a Day other than the first (1st) Day of a Month, then the Fixed Payment payable for the Month in which either of such Days occurs shall be equal to the sum of (a) the Fixed Payment payable for such Month based on the Dependable Capacity prior to such Day multiplied by a fraction, the numerator of which is the number of Days in such Month prior to and including the Commercial Operations Date or the Dependable Capacity test date, as appropriate, and the denominator of which is the total number of Days in such Month, and (b) the Fixed Payment payable for such Month based on the Dependable Capacity after such Day multiplied by a fraction, the numerator of which is the number of Days after the Commercial Operations Date or the Dependable Capacity test date, as appropriate, and the denominator of which is the total number of Days in such Month.

9.1.3 The amount of the Fixed Payment shall be adjusted from time to time in accordance with Schedule 2.

9.2 Variable Payment

9.2.1 GPL shall pay to the Company each Month, in arrears, an amount equal to the Variable Payment calculated in accordance with Schedule 2.

9.2.2 The amount of the Variable Payment shall be adjusted from time to time in accordance with Schedule 2.

9.3 Retained Payments

9.3.1 Notwithstanding anything to the contrary contained in Clause 9.1, [five percent (5%)] of the amount of Fixed Payments payable to the Company for Dependable Capacity ("Retained Amount") shall be withheld by GPL to ensure the complete satisfaction by the Company of all of its obligations with respect to the Facility under Clause 4.2; provided that the Retained Amount shall never be greater than [ten percent (10%)] of the amount of Fixed Payments payable to the Company for Dependable Capacity or the Guyana Dollar equivalent at the prevailing exchange rate.

9.3.2 The Company may apply to GPL for payment of the Retained Amount, and GPL shall pay to the Company an amount equal to the Retained Amount if in the reasonable opinion of GPL, the Company has fully satisfied all of its obligations under Clause 4.2 with respect to (i) the PPA Original Support Documents and (ii) the PPA Amended Support Documents (as of the date of the Company's application for payment in the case of this Clause 9.3.2). If this Agreement terminates as a result of a breach hereof by the Company prior to the later of the Commercial Operations Date

or the fulfilment by the Company of its obligations under Clause 4.2, then the Retained Amount shall be forfeited to GPL. If this Agreement terminates during such period as a result of a breach by GPL under this Agreement, then GPL shall pay to the Company an amount equal to the Retained Amount in accordance with this Clause 9.3.

9.4 Liquidated Damages

9.4.1 Delays in Commissioning the Facility

- (a) Subject to the provisions of this Agreement if the Facility is not Commissioned on or before the Required Commercial Operations Date, then, the Company shall pay to GPL [AMOUNT IN WORDS] Dollars (\$[AMOUNT IN FIGURES]) (or the Guyana Dollar equivalent at the prevailing exchange rate) per MW for each Day or part thereof by which the Commissioning of the Facility is delayed beyond [COMMERCIAL OPERATION DATE]; provided that the cumulative amount of such payments shall not exceed [AMOUNT IN WORDS] Dollars (\$[AMOUNT IN FIGURES]) (or the Guyana Dollar equivalent at the prevailing exchange rate). These payments shall be liquidated damages for the detrimental impact of such delay.

9.4.2 Shortfalls in Commissioned Dependable Capacity of the Facility

If there is a Commissioned Shortfall with respect to the Facility, then the Company shall pay to GPL as liquidated damages for the detrimental impact [AMOUNT IN WORDS] Dollars (\$[AMOUNT IN FIGURES]) (or the Guyana Dollar equivalent at the prevailing exchange rate) per kW of such Commissioned Shortfall as per Schedule 3.

9.4.3 Shortfalls in On-Going Capacity

If, after the Commercial Operations Date, the Dependable Capacity of the Facility shall be less than the Contracted Dependable Capacity, then the Company shall pay to GPL [AMOUNT IN WORDS] Dollars (\$[AMOUNT IN FIGURES]) (or the Guyana Dollar equivalent at the prevailing exchange rate) per kW per Month (prorated for partial Months in the Month in which the Commercial Operations Date occurs) of such On-Going Dependable Capacity Shortfall until the next testing of Dependable Capacity, as liquidated damages for the detrimental impact of such lower Dependable Capacity.

9.4.4 Dispatch Levels

- (a) If the Company does not achieve the Dispatch level requested by GPL pursuant to the Operating Procedures within a tolerance of plus or minus (+/-) one (1) percent of the requested Dispatch level within the time allowed by the load ramping rates **and minimum dispatch** set forth in the Minimum Functional Specifications after the receipt of a Dispatch request, then, subject

to Clauses 9.4.4(d) through (e) below, the Company shall pay to GPL for each kWh outside the tolerance an amount in Dollars (or the Guyana Dollar equivalent at the prevailing exchange rate) equal to the product of one one-hundredth (0.01), the Fixed Payment Price and the applicable percentage set forth in Clause 9.4.4(c) until the Company advises GPL that it is able to comply with said Dispatch request and complies with said Dispatch request should GPL choose not to change the request; provided that after the Company has advised GPL that it is able to comply with the aforesaid Dispatch request, GPL may make a new Dispatch request, and the Company's failure to comply with such new request shall be subject to the liquidated damages set forth in this sub-clause (a)

- (b) In each instance wherein liquidated damages are applicable the due date for any such liquidated damages shall be deferred to [TIME PERIOD TO BE DETERMINED] after the applicable requested Dispatch level was not achieved (notwithstanding Clause 9.5.3 to the contrary, if applicable). The payments under this Clause 9.4.4(b) shall be liquidated damages for the detrimental impact of such deviations from the requested Dispatch level.
- (c) Payments under this Clause 9.4.4 shall not exceed in any twelve (12) Month period the amount of Fixed Payments payable to the Company under Clause 9.1 for the same twelve (12) Month period.
- (d) The applicable percentage for purposes of sub-clause (a) above shall be [sixty five percent (65%)] for Peak Hours and [**forty** five percent (45%)] for Off-Peak Hours. GPL may designate new Peak Hours for the purposes of this Clause 9.4.4 and in the event of such new Peak Hours designation, shall give notice to the Company at least [three (3)] Months prior to the first (1st) Day of any Year; provided that the total number of Peak Hours in a Day may not exceed twelve (12).

9.4.5 Adjustments; Procedures for Payment

The amounts of all of the liquidated damages set forth in Clauses 9.4.1 through 9.4.4 shall be adjusted from time to time in accordance with Schedule 2 and shall be payable in Dollars (or the equivalent Guyana Dollars at the prevailing exchange rate) Liquidated damages arising under Clause 9.4.4 shall be billed and paid in accordance with the provisions of Clause 9.5. Liquidated damages arising under Clauses 9.4.1 through 9.4.3 shall be billed and paid in accordance with the provisions of Clause 9.6.

9.4.6 Exceptions; Waiver of Defences

- (a) Notwithstanding the provisions of Clauses 9.4.1 through 9.4.4 above, the Company shall not be liable to GPL for liquidated damages if the Company has previously declared a GPL Event of Default, in accordance with Clause

14.2 of this Agreement, that caused the Company to incur such liquidated damages; provided that the Company shall promptly pay to GPL all such liquidated damages if it is subsequently determined under Clause 15 that there was no GPL Event of Default.

- (b) The Parties agree that actual damages may be difficult or impossible to determine in the event that (i) the Facility is not in service by the dates required, (ii) the Facility is not capable of achieving and maintaining the contracted Dependable Capacity, or (iii) the Facility cannot achieve the designated Dispatch levels. Therefore, pursuant to the terms of this Agreement, the Parties have agreed (i) on sums as set out in Schedule 2 as liquidated damages, (ii) that actual damages would be difficult or impossible to determine and that such liquidated damages are a reasonable approximation of such actual damages and (iii) that the payment of liquidated damages is in lieu of actual damages for such occurrences and that the payment of liquidated damages is GPL' exclusive remedy for the occurrences described in Clauses 9.4.1 through 9.4.4 above (except as provided in Section 14). For the avoidance of doubt, the Parties agree that the liquidated damages payable under Clauses 9.4.1 through 9.4.4 constitute the sole and exclusive remedy of GPL for the occurrences described therein; provided that nothing herein shall impair the rights or remedies of GPL under Clause 14.4.1 if those occurrences constitute Company Events of Default under any of Clauses 14.1.1 through 14.1.11. The Company hereby waives any defence as to the validity of any liquidated damages in this Agreement on the grounds that such liquidated damages are void as penalties.

9.4.7 Security Deposits

To be negotiated.

9.5 Payment of Liquidated Damages for Dispatch Deviation

9.5.1 Within twenty-one (21) Days after the last Day of each Month, GPL shall compute and advise the Company by written statement (a "Dispatch Deviation Statement") indicating the amount of Dispatch deviations determined in accordance with Clause 9.4.4(a) of this Agreement that has accrued to date in the applicable Year. The Company shall be given twenty-one (21) Days after receipt of the Dispatch Deviation Statement to provide a written acceptance or to dispute any amount on the Dispatch Deviation Statement.

9.5.2 If the accrued Year to date Dispatch deviation on the Dispatch Deviation Statement exceeds the Allowable Forced Outage Energy, then GPL shall deliver simultaneously with such Dispatch Deviation Statement an invoice (a "Provisional Liquidated Damages **Invoice**") setting forth the amount of liquidated damages due to GPL

pursuant to this Agreement. The Company shall be given **fourteen (14)** Days after receipt of the **Provisional Liquidated Damages Invoice** to dispute any amounts contained in the Provisional Liquidated Damages Invoice, provide GPL with **written** notification of the reasons for the dispute and pay to GPL the undisputed amounts contained in the Provisional Liquidated Damages Invoice. After the receipt of the response from the Company or at the end of the fourteen (14) Days provided for the Company to respond to the Provisional Liquidated Damages Invoice, whichever is earlier, seven (7) Days later (a) the Provisional Liquidated Damages Invoice shall be deemed the final invoice where the Company accepts the contents of same, or (b) GPL shall issue **an amended written invoice setting forth** the final computed amount of liquidated damages, subtracting any amounts disputed by the Company from the amount contained in the Provisional Liquidated Damages **Invoice** (a “Final Liquidated Damages **Invoice**”). On the date that is fourteen (14) Days after delivery of the Final Liquidated Damages **Invoice** (the “Liquidated Damages Due Date”), the Company shall pay to GPL the amount of liquidated damages shown on the Final Liquidated Damages **Invoice plus accrued interest on such amount at the Base Rate from the date that is twenty one (21) Days after the date of delivery of the Provisional Liquidated Damages Invoice until the Liquidated Damages Due Date or the date such amount is paid in full, whichever is earlier.** If the Company does not pay to GPL the entire amount of liquidated damages shown on the Final Liquidated Damages **Invoice** plus accrued interest on the Liquidated Damages Due Date, (a) GPL may immediately deduct any unpaid amount from the Operations Security Deposit, as appropriate, and (b) the Company shall pay GPL interest on any unpaid amount at the Default Rate from the Liquidated Damages Due Date until the date such amount is paid in full.

9.5.3 Notwithstanding the first sentence of Clause 9.5.2, GPL may submit a **Provisional Liquidated Damages Invoice** to the Company at any time **prior to** one hundred and eighty (180) Days after the end of any Year in which GPL determines that the Company owed liquidated damages to GPL (**each such date, a “Liquidated Damages Claim Deadline”**). If GPL has not submitted a **Provisional Liquidated Damages Invoice** to the Company prior to a **Liquidated Damages Claim Deadline**, GPL shall have no further right to claim liquidated damages from the Company for **the prior Year, and the Company shall be released from any obligation to pay liquidated damages** for such Year.

9.5.4 In the event of GPL submits a Provisional Liquidated Damages Invoice pursuant to Clause 9.5.3, the provisions of Clause 9.5.2 shall apply *mutatis mutandi* in relation to such Provisional Liquidated Damages Invoice, except that **sixty (60)** Days shall be substituted for the period which the Company shall have in which to Dispute any amounts contained in the **Provisional Liquidated Damages Invoice, to provide GPL with written notification of the reasons for the Dispute and pay to GPL the undisputed amounts contained in the Provisional Liquidated Damages Invoice.**

9.6 Payment and Billing

- 9.6.1 Within fourteen (14) Days after the last Day of each Month, GPL shall prepare and deliver to the Company a statement reflecting all amounts payable to each Party by the other Party in Dollars pursuant to this Agreement (each, a "Statement"). The Statement shall include calculations, in reasonable detail, of such amounts owed to the Company for Fixed Payments and Variable Payments (if any) and amounts owed to GPL, including for liquidated damages, in accordance with this Agreement and the procedures determined by the Operating Committee. The Statement shall be accompanied by any payment owed to the Company.
- 9.6.2 If GPL fails to pay any amount of a payment owed to the Company (a) on or before the Day such payment is due under Clause 9.6.1 or (b) if the Company prepares the Statement in accordance with Clause 9.7.4, on or before the Day such payment is due under Clause 9.7.4, GPL shall pay accrued interest on such amount at the Base Rate commencing on (i) the [Amount] ([Figures]) Day after the last Day of the Month for which payment is due under Clause 9.6.1 in the case of sub-clause (a) or (ii) the [Amount] ([Figures]) Day after GPL receives the Statement in the case of sub-clause (b) and continuing, in either case, for a period of [Amount ([Figures])] Days, and thereafter GPL shall pay interest on such amount at the Default Rate until the date such amount is paid in full.
- 9.6.3 Amounts shown on any Statement as owed to GPL by the Company shall be due for payment [Amount] ([Figures]) Days after delivery of the Statement. If the Company fails to pay any amount of a payment owed to GPL on the Day such payment is due, the Company shall pay accrued interest on such amount at the Base Rate commencing on the [Amount] ([Figures]th) Day after delivery of the Statement and continuing for a period of [Amount] ([Figures]) Days, and thereafter the Company shall pay interest on such amount at the Default Rate until the date such amount is paid in full. This Clause 9.6.3 shall not apply to payments due pursuant to clause 9.5.2.
- 9.6.4 At any time prior to one hundred and eighty (180) Days after the end of any Year in which a Statement is delivered (or within such other period as permitted or required by applicable law), either Party may dispute the amount of such Statement by serving a notice on the other Party indicating the Statement concerned, the amount of the Dispute and the basis therefor (a "Dispute Notice"). The Dispute shall be settled by mutual discussion and, if necessary, pursuant to the provisions of Section 15. Within fourteen (14) Days after the resolution of the Dispute, the Party which is determined to owe money to the other Party shall pay such sum to the other Party together with accrued interest thereon (i) at the Base Rate from the date such payment should have been made and continuing for a period of fourteen (14) Days, and (ii) thereafter at the Default Rate until the date such amount is paid in full.
- 9.6.5 If a payment under this Agreement is due on a day which is not a Business Day, the

due date for such payment shall instead be the next Business Day.

9.7 Foreign Exchange

The Company shall make its own suitable arrangements to obtain any foreign exchange necessary for it to own, operate and maintain the Facility.

9.8 Change in Relevant Law

9.8.1 If a Change in Relevant Law occurs, the Company shall use reasonable efforts to select a method of compliance with such Change in Relevant Law that minimizes the cost and/or maximizes the savings incurred by the Company. The Company shall also use reasonable efforts to implement the selected method of compliance so as to minimize the cost and/or maximize the savings derived by the Company. The Company shall promptly give GPL written notice of any Change in Relevant Law that result in any change in costs or savings.

9.8.2 In the event that compliance with a Change in Relevant Law results in either an increase in costs of the Company or a savings by the Company, GPL shall increase or decrease, as applicable, its payments to the Company in accordance with Schedule 2; provided that the respective requirements of Clauses 9.8.3 and 9.8.4 have been satisfied. The Parties agree that any payments due to the Company as a result of a Change in Relevant Law shall accrue interest at the Default Rate for the period commencing [fourteen (14)] Days after the date that the Company has submitted a statement for the payment due to it as a result of the Change in Relevant Law until the date that such payment is made to the Company in full.

9.8.3 GPL shall only increase the payments to the Company for an increase in the cost of complying with a Change in Relevant Law, which increased payments shall be effective from the effective date of the Change in Relevant Law, if: (a) it requires the Company to incur any combination of capital improvements and or operational cost increases in order to continue to meet its obligations hereunder, or, (b) the Change in Relevant Law materially and adversely affects the performance by the Company of its obligations or the enjoyment by the Company of its rights under or pursuant to this Agreement, or otherwise results in increased costs and expenses of the Company, (c) the Company gives GPL written notice describing the particulars of the Change in Relevant Law, (d) the Company furnishes monthly reports on the impact on its performance and on its efforts to overcome the adverse effects of the Change in Relevant Law until the earlier of (i) the date on which the Company has overcome the adverse effects of the Change in Relevant Law and (ii) the date on which GPL agrees that such reports are no longer useful (which agreement shall not be unreasonably withheld), (e) the Company uses its reasonable efforts to overcome the adverse effects of the Change in Relevant Law, (f) the compensation is only paid to the Company for the period that is required to overcome the adverse effects of the

Change in Relevant Law and increased costs and expenses of the Company which is or will be reasonably incurred (provided that the Company shall not be entitled to make any claim under this Clause 9.8.3 until such time as the Company's claims from such Change in Relevant Law exceed [**Amount to be determined by PUC**] **Dollars (\$[Figures]) (or the Guyana Dollar equivalent at the prevailing exchange rate)** in the aggregate, in respect of all the Changes in Relevant Law arising under this Agreement, at which time all such claims of the Company may be made), and (g) the Company promptly gives GPL written notice when and if it has overcome the adverse effects of the Change in Relevant Law.

9.8.4 GPL shall only reduce the payments to the Company for a decrease in the cost of complying with a Change in Relevant Law if: (i) GPL gives the Company written notice describing the particulars of the Change in Relevant Law or the Company gives GPL written notice describing the particulars of the Change in Relevant Law and (ii) The reduction in payments is only made for the period that the Company benefits from the decrease in the cost of complying with a Change in Relevant Law in accordance with Schedule 2.

9.9 GPL Letter of Credit

To be negotiated.

10. TESTING AND CAPACITY RATINGS

10.1 Testing

The Company shall carry out testing of the Dependable Capacity of the Facility before and after the Commercial Operations Date in accordance with Schedule 4. GPL shall be given prior written notice of any testing or Commissioning procedure in accordance with Schedule 4 and shall be entitled to have representatives present for the purpose of observing any such procedure.

10.2 Test Results

The Company shall promptly provide GPL with copies of the results of all tests performed pursuant to Schedule 4. In addition, the Company shall provide the Independent Engineer with copies of all such test results.

10.3 Disputes

In the event that a Dispute arises between the Company and GPL regarding the testing of Dependable Capacity, or the protection tests described in Schedule 4, such Dispute shall be resolved pursuant to the provisions of Section 15.

11. INSURANCE

11.1 Insurance Coverage

At all times during the term of this Agreement, each Party shall obtain and maintain at its own cost, insurance coverage for the facilities relating to the Facility within its ownership sufficient to indemnify that part or any successful claimant against loss or damage arising with respect to that Facility. Such insurance shall include but not be limited to the types of coverage usually maintained in respect of facilities of this kind.

11.2 Company's insurance shall include, but not be limited to:

11.2.1 All Risk (Property Damage) All Risks (Property Damage) Operational Insurance in an amount of no less than fifty percent (50%) replacement cost of the Facility, subject to deductibles of no more than **[applicable statutory minimum]** Dollars (or the Guyana equivalent and the prevailing exchange rate) in the case of wind, flood and earthquake and all other perils.

11.2.2 Public Liability Insurance with bodily injury and property damage limits of at least **[applicable statutory minimum]** Dollars (or the Guyana equivalent and the prevailing exchange rate) per occurrence, and in the aggregate, and subject to deductibles of 10% each and every claim.

Employer's Liability Insurance with bodily injury and property damage limits of at **[applicable statutory minimum]** Dollars (or the Guyana equivalent and the prevailing exchange rate) per occurrence, and in the aggregate, and subject to deductibles of no greater than 10% each and every claim.

11.3 Procedure

Not later than thirty (30) Days after execution of this Agreement and thereafter not later than forty-five (45) Days prior to the commencement of each Year, the Company shall provide to GPL an insurance schedule stating the coverage, the coverage level, the deductible, and the premium for each policy of insurance required pursuant to Clause 11.1.

11.4 Endorsements

The Company shall cause its insurers to amend its insurance policies as are applicable with endorsement terms set forth below:

11.4.1 GPL, its directors, officers, and employees are additional insured personnel under this policy with respect to the construction, operation, and maintenance of the Facility;

11.4.2 This insurance is primary with respect to the interest of GPL, its directors, officers,

and employees and any other insurance maintained by them is excess and not contributory with this insurance;

11.4.3 The following Cross Liability clause is made a part of the policy: "In the event of claims being made by reason of (a) personal and/or body injuries suffered by any employee or employees of one insured hereunder for which another insured hereunder is or may be liable, or (b) damage to property belonging to any insured hereunder for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is made or may be made in the same manner as if separate policies have been issued to each insured hereunder, except with respect to the limits of insurance";

11.4.4 Notwithstanding any provision of the policy, this policy may not be cancelled, renewed, or materially changed by the insurer without giving thirty (30) Days prior written notice to GPL. All other terms and conditions of the policy remain unchanged.

11.4.5 For the insurance required by Clauses 11.2.1, 11.2.2 and 11.2.3 above, the Company agrees to waive, and shall cause its insurers to waive, all rights of subrogation against GPL and its affiliates.

11.5 Use of Proceeds of All Risk/Operational Insurance

The proceeds of an All Risks or Operational insurance obtained pursuant to Clauses 11.1.1 through 11.1.3 shall, at the option of GPL and subject to the Lenders' rights, be applied to the repair of the Facility.

11.6 Certificates of Insurance

The Company shall cause its insurers or agents to provide GPL with certificates of insurance evidencing the policies and endorsements as required in this Section 13. Failure of GPL to receive certificates of insurance does not relieve the Company of the insurance requirements set forth herein. Failure to obtain the insurance coverage required by this Section 13 shall in no way relieve or limit the Company's obligations and liabilities under other provisions of this Agreement.

11.7 Deductibles at Commercially Reasonable Rates

In the event that the deductibles required for the insurance coverage provided in this Section 13 are not available at commercially reasonable rates, GPL shall not unreasonably condition, withhold or delay its consent to the Company's obtaining such insurance coverage with deductibles as are available at commercially reasonable rates.

11.8 Responsibility for Deductibles and Premiums

The company shall bear responsibility for any and all premiums, whether at inception or retroactive, or deductibles incurred or required under the insurance contained by this section 11.

12. INDEMNIFICATION AND LIABILITY

12.1 Indemnity by the Company

In addition to the Company's obligations and GPL' remedies provided elsewhere in this Agreement, the Company will bear responsibility for loss of or damage to property, death or injury to person, and any other liabilities, damages, losses and reasonable costs and expenses (including, but not limited to, legal fees and expert witness fees) (or any claim against GPL in respect thereof) suffered by GPL as a direct and foreseeable consequence of the Company's conduct:

- 12.1.1 During the design, financing, construction, ownership, operation, or maintenance of the Facility resulting from any negligent act or omission of the Company its servants or agents, and through no fault of GPL, its servants or agents;
- 12.1.2 In connection with, arising out of, or resulting from, any breach of warranty, material misrepresentation by the Company, or non-performance of any term, condition, covenant or obligation to be performed by the Company under this Agreement or any other agreement comprising Material Agreements; or
- 12.1.3 Arising out of the failure of the Company's representatives and/or agents and/or contractors to observe the health and safety procedures, guidelines, and policies of GPL while on property owned and/or controlled by GPL provided that the safety rules, guidelines, and procedures were prominently displayed or otherwise communicated to them;
- 12.1.4 In connection with any claim, proceeding or action brought against GPL under any applicable national or local environmental laws or regulations resulting from the activities of the Company, including without limitation the discharge, dispersal, release, storage, treatment, generation, disposal or escape of pollutants or other toxic or hazardous substances from the Facility, the contamination of the soil, air, or water around the Site, or any pollution abatement, replacement, removal or other decontamination or monitoring obligations with respect thereto; provided that with respect to this Clause 12.1.3, the Company shall not be responsible for any liabilities, damages, losses, costs or expenses suffered by GPL unless such liabilities, damages, losses, costs or expenses resulted from the Company's violation of national or local environmental laws or regulations, as determined by a court, governmental authority or arbitrator of competent jurisdiction.

The Company will hold GPL fully indemnified in respect of the foregoing losses, damages, death, injuries, liabilities, costs, and expenses. The Company's indemnities, however, shall not extend to any loss, damage, death, injury, liability, cost, or expense (or any claim in respect thereof) to the extent that it was caused by any act or omission of GPL or the failure of GPL to take reasonable steps in mitigation thereof or the breach by GPL, its servants or agents of the provisions of Clause 6.9.2 hereof. Notwithstanding anything to the contrary contained in this Clause 12.1, nothing in this Clause 12.1 shall apply to any loss, damage, death, injury, liability, cost, or expenses (or any claim in respect thereof) to the extent that, GPL is compensated pursuant to the terms of any agreement comprising the Material Agreements.

12.2 Indemnity by GPL

In addition to GPL's obligations and the Company's remedies provided elsewhere in this Agreement, GPL will bear responsibility for loss of and damage to property, death or injury to person, and any other liabilities, damages, losses and reasonable costs and expenses (including, but not limited to, legal fees and expert witness fees) or any claim against the Company in respect thereof) suffered by the Company:

- 12.2.1 During the design, financing, construction, ownership, operation, or maintenance of the Facility resulting from any negligent act or omission of GPL, its servants or agents and through no fault of the Company, its servants or agents, without recourse to the Company;
- 12.2.2 In connection with, arising out of, or resulting from, any material misrepresentation by GPL or non-performance of any term, condition, covenant, or obligation to be performed by GPL under this Agreement; or
- 12.2.3 Arising out of the failure of GPL's representatives and/or agents and/or contractors to utilise adequate and necessary equipment and/ or to observe the reasonable instructions and directions of the Company's representative while on property owned and/or controlled by the Company provided that the instructions and directions were prominently displayed or otherwise communicated to them.
- 12.2.4 In connection with any claim, proceeding or action brought against the Company under any applicable national or local environmental laws or regulations resulting from the activities of GPL, including without limitation the discharge, dispersal, release, storage, treatment, generation, disposal or escape of pollutants or other toxic or hazardous substances from the Facility, the contamination of the soil, air, or water around the Site, or any pollution abatement, replacement, removal or other decontamination or monitoring obligations with respect thereto; provided that with respect to this Clause 12.2.4, GPL shall not be responsible for any liabilities, damages, losses, costs or expenses suffered by the Company unless such liabilities, damages, losses, costs or expenses resulted from the GPL' violation of national or local

environmental laws or regulations, as determined by a court, governmental authority or arbitrator of competent jurisdiction.

GPL will hold the Company fully indemnified in respect of the foregoing losses, damages, death, injuries, liability, costs, and expenses. GPL's indemnities, however, shall not extend to any loss, damage, death, injury, liability cost or expense (or any claim in respect thereof) to the extent that it was caused by any act or omission of the Company or the failure of the Company to take reasonable steps in mitigation thereof.

Notwithstanding anything to the contrary contained in this Clause 12.2, nothing in this Clause 12.2 shall apply to any loss, damage, death, injury, liability, cost, or expense (or any claim in respect thereof) to the extent that, the Company is compensated pursuant to the terms of any agreement comprising the Material Agreements.

12.3 Notice of Proceedings

Each Party shall promptly notify the other Party of any claim or proceeding in respect of which, but for the provisions of Clause 12.4, it is entitled to be indemnified under this Clause 12. Such notice shall be given as soon as reasonably practicable after the relevant Party becomes aware of such claim or proceeding.

12.4 Basket Limitation

Neither Party shall be entitled to make any claim under this Clause 12 unless such claims by such Party exceed [**Amount to Be Agreed Dollars**] (\$) (or the Guyana Dollar equivalent at the prevailing exchange rate) in the aggregate or until such claim if not made would be barred by the relevant statute of limitations.

12.5 Obligation to Defend

Each Party on reasonable grounds shall have the right, but not the obligation, to contest, defend and litigate (and to retain legal advisers of its choice in connection therewith) any claim, action, suit or proceeding by any third party brought against it, with respect to which the Party it is entitled to be indemnified pursuant to Clause 12, with the Party's reasonable costs and expenses thereof shall be subject to the said indemnity; provided that the indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding at its expense and through legal advisers of its choice if it (a) gives notice of its intention to do so to the Party entitled to indemnification, (b) acknowledges in writing its obligation to indemnify that Party to the full extent provided by this Clause 12, and (c) reimburses that Party for the reasonable costs and expenses previously incurred by it prior to the assumption of such defence by the indemnifying Party. Neither Party shall settle or compromise any claim, action, suit

or proceeding in respect of which it is entitled to be indemnified by the other Party without the prior written consent of that Party, which consent shall not be unreasonably conditioned, withheld or delayed.

13. FORCE MAJEURE

13.1 Consequences of Force Majeure

Subject to the provisions of Clauses 13.2 and 13.3, neither Party shall be responsible or liable for, or deemed in breach hereof because of, any failure or delay in complying with its obligations under or pursuant to this Agreement (other than payment obligations) due substantially to one or more events of Force Majeure or its or their effects or by any combination thereof, and the periods allowed for the performance by the Parties of such obligation(s) (other than that specified in Clause 14.3) shall be extended on a day-for-day basis for so long as one or more events of Force Majeure continue to materially and adversely affect the performance by such Party of such obligation(s) under or pursuant to this Agreement; provided that no relief shall be granted to the Party claiming Force Majeure pursuant to this Clause 13.1 to the extent that such failure or delay would have nevertheless been experienced by that Party had such Force Majeure not occurred; and provided, further, that the Party not claiming Force Majeure may immediately terminate this Agreement without further obligation if Force Majeure delays a Party's performance for a period greater than eighteen (18) consecutive Months. Other than for breaches of this Agreement by the Party not claiming Force Majeure, and without prejudice to the right of the Party claiming Force Majeure to indemnification pursuant to Clause 12, the Party claiming Force Majeure shall not have any cause of action against the other Party solely as a result of the Force Majeure. **For the avoidance of doubt**, the suspension of performance **set forth in this Clause 13** shall be of no greater scope and of no longer duration than is required to overcome the effects of the Force Majeure.

13.2 Notification of Force Majeure

The Party claiming Force Majeure shall (i) within seven (7) days give notice of an event of Force describing the particulars of the Force Majeure, its effect, the anticipated duration thereof and any action being taken to avoid or minimize its effect, (ii) use commercially reasonable efforts to remedy its inability to perform its obligations under this Agreement and (iii) keep such other party apprised of such efforts on a continuous basis (iv) give the other Party written notice when it is able to resume performance of its obligations under this Agreement. The burden of proof shall lie on the party claiming Force Majeure.

Notwithstanding the occurrence of Force Majeure, the Parties shall perform their obligations under this Agreement to the extent the performance of such obligations is not impeded by the Force Majeure.

13.3 Impact of Force Majeure on GPL Payments

14. DEFAULTS AND TERMINATION

14.1 Company Events of Default

GPL may give a notice of default under this Agreement (a “GPL Notice of Default”) upon the occurrence of any of the following events unless caused by a breach by GPL of this Agreement (each a “Company Event of Default”):

- 14.1.1 The failure of the Company to post the Construction Security Deposit in accordance with Clause 9.4.7;
- 14.1.2 The failure of the Company to achieve the Commencement of Construction within [] Days after the Agreement Date;
- 14.1.3 The Abandonment by the Company of the construction of the Facility after its Commencement of Construction without the written consent of GPL;
- 14.1.4 The failure of the Company to achieve the Commercial Operations Date within one (1) month after the Required Commercial Operations Date;
- 14.1.5 The failure of the Company to provide or replenish the Operations Security Deposit in accordance with Clause 9.4.7(c) of this Agreement;
- 14.1.6 The Abandonment by the Company of the operation of the Facility;
- 14.1.7 Wilful alteration of, or tampering by the Company, or its employees or agents acting within the scope of their employment, with the Interconnection Facilities without the prior written consent of GPL, except in situations where such actions are taken to prevent immediate injury, death, or property damage and the Company uses all reasonable efforts to provide GPL with advance notice of the need for such actions;
- 14.1.8 The assignment or transfer of this Agreement or an assignment, transfer, or acquisition in breach of Clause 16.1 or 16.2 of this Agreement;
- 14.1.9 Any failure by the Company to make any payment or payments required to be made by it to GPL under this Agreement within ten (10) Days after the Company is given notice that the payment was not made by the due date for payment under the relevant agreement, which payment or payments exceed in the aggregate at any one time the equivalent of [AMOUNT TO BE AGREED Dollars (\$[FIGURES])] (or the Guyana Dollar equivalent at the prevailing exchange rate);
- 14.1.10 Except for the purpose of amalgamation, or reconstruction (provided that such amalgamation or reconstruction does not affect the ability of the amalgamated or reconstructed entity, as the case may be, to perform its obligations under this

Agreement), the occurrence of any of the following events: (a) the passing of a resolution by the owners/shareholders of the Company for the winding up of the Company; (b) the admission in writing by the Company of its inability generally to pay its debts as they become due; (c) the appointment of a provisional manager, trustee or Liquidator in a winding up proceeding after notice to the Company and due hearing; or (d) the making by the Court of an order winding up the Company; provided that a dissolution of the Company shall not constitute a Company Event of Default if GPL has approved any such change in advance in accordance with the terms of this Agreement; or (e) the dissolution of any entity comprising the Company;

14.1.11 Any material breach by the Company of any representation, warranty or covenant in this Agreement save that the Parties agree that a breach of the covenant contained in Clause 5.3.2 shall not constitute a Company Event of Default unless such breach constitutes a Company Event of Default pursuant to Clause 14.1.4; or

14.1.12 The failure of the Company to make the payment required to be made by it under Clause 9.4.7(c).

14.2 GPL Events of Default

The Company may give a notice of default under this Agreement (a "Company Notice of Default") upon the occurrence of any of the following events unless caused by a breach by the Company of this Agreement (each a "GPL Event of Default"):

14.3 Except for the purpose of amalgamation, reorganization or reconstruction that does not affect the ability of the amalgamated, reorganized or reconstructed entity, as the case may be, to perform its obligations under this Agreement, the occurrence of any of the following events: (a) the passing of a resolution by the shareholders of GPL for the winding up of GPL; (b) the admission in writing by GPL of its inability generally to pay its debts as they become due; (c) the appointment of a provisional manager, trustee or Liquidator in a winding up proceeding after notice to GPL and due hearing; or (d) the making by the Court of an order winding up GPL.

14.3.1 Any failure by GPL to make any payment required to be made by it under Section 9 within ten (10) Days after GPL is given notice that the payment was not made by the due date for payment under Section 9, which payment or payments exceed in the aggregate at any one time the equivalent of **[AMOUNT TO BE AGREED Dollars (\$[FIGURES])]** (or the Guyana Dollar equivalent at the prevailing exchange rate); provided that the Company shall have attempted to obtain payment from such other-sources as provided for in accordance with Clause 9.7 and failed to obtain payment thereunder in full before this event shall be considered to be a GPL Event of Default;

14.3.2 Wilful tampering by GPL, or its employees or agents acting within the scope of their employment, with the Facility without the prior written consent of the Company, except in situations where such actions are taken to prevent immediate injury, death, or property damage and GPL uses all reasonable efforts to provide the Company with advance notice of the need for such actions;

14.3.3 An assignment or transfer of this Agreement in breach of Clause 16.1.2 and 16.1.3;

14.3.4 The failure of GPL to provide, replenish or replace any Letter of Credit in accordance with Clause 9.9; or

14.3.5 Any material breach by GPL of any representation, warranty, or covenant in this Agreement.

14.4 Notice and Cure

14.4.1 A notice of default given pursuant to Clauses 14.1 or 14.2 (each a "Notice of Default") shall specify in reasonable detail the Company Event of Default or GPL Event of Default (each an "Event of Default"), as the case may be, giving rise to the Notice of Default and shall expressly state that it is a Notice of Default. In the case of a default set forth in Clauses 14.1.1, 14.1.5, 14.1.6, 14.1.7, 14.1.12 or 14.2.3 the defaulting Party shall have five (5) Business Days within which to cure the Event of Default.

14.4.2 Except as specifically provided for in Clauses 4.1.9 and 4.2.2, in the case of a default set forth in any other sub-clause of Clause 14.1 or 14.2 the defaulting Party shall have thirty (30) Days to cure the Event of Default, or such longer period as shall be reasonably necessary to effect a cure, so long as such cure is being diligently pursued and such longer period beyond thirty (30) Days is agreed to in writing by the other Party, provided that all such cure periods shall immediately end and this Agreement may be terminated if the defaulting Party ceases to use all reasonable efforts to cure its Event of Default.

14.4.3 The Company shall be deemed to have cured any Event of Default set forth in Clause 14.1.10 caused by the dissolution, bankruptcy, or insolvency of the Company if any Owner or any combination of Owners causes the Company to be reconstituted under the Laws of Guyana within such thirty (30) Day period.

14.4.4 The defaulting Party shall furnish to the non-defaulting Party, during any cure period, weekly reports on its progress in curing the Event of Default.

14.5 Rights and Remedies Upon an Event of Default

14.5.1 If a Company Event of Default has occurred and the Company Event of Default has not been cured within the period specified in Clause 14.3, then GPL, in its sole discretion, may:

- (a) terminate this Agreement after delivering written notice to the Company and copied to the PUC; and/or
- (b) proceed in accordance with Clause 15 to recover any damages to which it may be entitled (including all costs and expenses reasonably incurred in the exercise of its remedy); and/or
- (c) retain all or part of the Construction Security Deposit and/or Operations Security Deposit provided by the Company pursuant to Clause 9.4.7 in full or partial satisfaction of the damages to which it may be entitled under sub-clause (b) above; and/or
- (d) calculate interest on any amounts due at the Default Rate.
- (e) after giving notice to the Company and the PUC, disconnect the Facility from the GPL Grid in accordance with Prudent Utility Practice.

The rights and remedies of GPL set forth in this Clause 14.4.1 shall not be exclusive but, to the extent permitted by law, shall be cumulative and in addition to all other rights and remedies existing at law, in equity or otherwise. GPL may exercise each right and remedy afforded by this Agreement or by law from time to time and as often as may be deemed expedient by GPL. No delay by, or omission of, GPL to exercise any right or remedy arising upon any Company Event of Default shall impair any such right or remedy or constitute a waiver of such event or an acquiescence thereto.

14.5.2 If a GPL Event of Default has occurred and the GPL Event of Default has not been cured within the period specified in Clause 14.3, then the Company, in its sole discretion, may:

- (a) terminate this Agreement by delivering written notice to GPL; and/or
- (b) suspend performance of its obligations and duties hereunder, upon written notice to the defaulting party, until the default is cured; and/or
- (c) proceed in accordance with Clause 15 to recover any damages to which it may be entitled (including all costs and expenses reasonably incurred in the exercise of its remedy); and/or
- (d) calculate interest on any amounts due at the Default Rate; and/or
- (e) after giving notice to GPL and the PUC, disconnect the Facility from the **GPL Grid System in accordance with Prudent Utility Practice**; and/or

The rights and remedies of the Company set forth in this Clause 14.4.2 shall not be exclusive but, to the extent permitted by applicable law, shall be cumulative and in addition to all other rights and remedies existing at law, in equity or otherwise. The Company may exercise each right and remedy afforded by this Agreement or by applicable law from time to time and as often as may be deemed expedient by the Company. No delay by, or omission of, the Company to exercise any right or remedy arising upon any GPL Event of Default shall impair any such right or remedy or constitute a waiver of such event or an acquiescence thereto.

14.6 Survival

Notwithstanding anything to the contrary contained in this Agreement, the rights and obligations set forth in Clauses 9.3, 9.4.6, 9.4.7, 9.5, 9.9.4, 9.9.7 and Sections 12, 14 and 15 shall survive the termination of this Agreement.

14.7 Exclusion of Consequential Damages

In no event shall any Party or any affiliate thereof or any of their respective directors, officers, agents, or employees be liable to any other Party or any affiliate thereof or any of their respective directors, officers, agents, or employees for any indirect, consequential, punitive, special, incidental, or exemplary losses or damages (including without limitation lost profits or lost business opportunity), whether such liability arises in contract, tort or otherwise.

15. RESOLUTION OF DISPUTES

15.1 Mutual Discussions

If any dispute or difference of any kind whatsoever (a "Dispute") shall arise between the Parties in connection with, or arising out of, this Agreement, the Party claiming a dispute or difference has arisen shall issue a Notice of Dispute to the other party and both Parties, within sixty (60) days shall attempt to settle such Dispute in the first instance by mutual discussion between the Company and GPL.

15.1.1 Arbitration

15.1.2 If the Dispute cannot be settled within the sixty (60s) Days by mutual discussions as provided for in Clause 15.1 then the dispute shall be finally be settled by arbitration (regardless of the nature of the Dispute) by either Party. The arbitration shall be conducted in accordance with the Laws of Guyana including, inter-alia, the Arbitration Act Cap. 7:03 of the laws of Guyana and the Parties hereby consent to arbitration thereunder.

15.1.3 Either Party wishing to institute an arbitration proceeding under this Clause 15.2.3. shall address a written notice to that effect to the other Party. Such notice shall

contain a statement setting forth the nature of the Dispute to be submitted for arbitration and the nature of the relief sought by the Party instituting the arbitration proceedings. In the event that the other Party wishes to proceed to arbitration, that Party shall, within fourteen (14) Days of receipt of the said notice, reply to the first Party confirming that it agrees to proceed to arbitration. The date of such confirmation shall determine the date of institution of arbitration proceedings under this Clause 15.2.3.

- 15.1.4 All arbitration proceedings shall take place in Georgetown, Guyana and will be conducted in the English language.
- 15.1.5 The arbitration panel will consist of three arbitrators (“Arbitration Tribunal”). Each Party shall appoint one arbitrator and the two so appointed shall appoint the third, who shall be the chairman of the Arbitration Tribunal. The Arbitration Tribunal shall comprise persons of recognized standing in jurisprudence or in the discipline related to the Dispute to be arbitrated. In the event that any Party fails to appoint an arbitrator, or the arbitrators appointed by the Parties fail to agree on the third arbitrator, the appointment shall be made by the President of the Guyana Bar Association upon referral of the issue by either Party or the two appointed arbitrators. No arbitrator appointed pursuant to this Clause 15.3.5 shall be an employee or agent or former employee or agent of any Party or any of its affiliates or a person with an interest in either Party.
- 15.1.6 Each Party to the Dispute shall bear its own expenses in the arbitral proceedings subject to any award the Arbitration Tribunal may make in that regard. The cost of the arbitral proceedings and the procedure for payment of such costs shall be determined by the Arbitration Tribunal.
- 15.1.7 The Arbitration Tribunal shall determine the fees and expenses of its members. The Arbitration Tribunal shall decide how and by whom the fees and expenses of its members and the cost of the arbitral proceedings shall be paid, and such decision shall form part of the award. In case any arbitrator appointed in accordance with this Clause 14 shall fail to accept his appointment, resign, die, otherwise fail or be unable to act a successor arbitrator shall be appointed in the same manner prescribed for the appointment of the arbitrator whom he succeeds, and such successor shall have all powers and duties of his predecessor.
- 15.1.8 The award of the Arbitration Tribunal shall be final and binding on the parties thereto, including any joined or intervening party.
- 15.1.9 The Company under this Agreement, unconditionally and irrevocably agree that the execution, delivery, and performance by it of this Agreement to which it is a party constitute private and commercial acts rather than public or governmental acts.

15.2 Continued Performance

During the pendency of any Dispute being handled in accordance with this Clause 15, (a) the Company shall continue to perform its obligations under this Agreement to deliver Dependable Capacity and Net Energy Output, (b) each Party shall continue to perform its obligations under this Agreement to pay all amounts due in accordance with this Agreement that are not in dispute, and (c) neither Party shall exercise any other remedies hereunder arising by virtue of the matters in a Dispute.

16. ASSIGNMENT

16.1 Assignment

16.1.1 GPL acknowledges and agrees that all obligations of the Company under this Agreement prior to the Commercial Operations Date may be performed by the Company's designee; provided that such designee is permitted to perform such obligations pursuant to the [Licensee's Supply of Electricity Licence, [YEAR]].

16.1.2 The Company may not assign or transfer its rights or obligations under **this Agreement, or discharge any of the facilities necessary for the Facility to meet the Dependable Capacity without the prior written consent of GPL, which consent shall not to be unreasonably conditioned, withheld or delayed**; provided that subject to the recommendation of the PUC and approval by the responsible Minister, the Company shall be entitled to assign or transfer its rights and obligations under this Agreement to any assignee or transferee to which it has assigned or transferred the [Licensee's Supply of Electricity Licence, [YEAR]]. In the event that GPL provides such consent, GPL shall execute all such acknowledgements of any assignment or any requisite documentation to affect the transfer or assignment as are reasonably requested by the Company; provided that the execution of such acknowledgements shall not prejudice any rights or interests of GPL.

16.1.3 Subject to the approval of the PUC, GPL may not assign or transfer its rights or obligations under or pursuant to this Agreement without the prior written consent of the Company, which consent shall not be unreasonably conditioned, withheld or delayed.

17. NOTICES

17.1 Address for Notices

All notices or other communications (together "notices") to be given or made hereunder shall be in writing, shall be addressed for the attention of the person indicated below and shall either be delivered personally or sent by prepaid post or fax or electronic mail. All notices given by fax shall be confirmed in writing, delivered, or sent as aforesaid but the failure to so confirm shall not vitiate the original

notice. The addresses for service of the Parties and their respective fax numbers and electronic mailing address shall be:

17.1.1 In the case of GPL:

Address: Guyana Power & Light Incorporated
40 Main Street
Georgetown, Guyana

Fax No.:

Attention:

Copied to:

E-mail:

17.1.2 In the case of the Company:

Address: [ADDRESS OF COMPANY]

Fax No.: [FAX NUMBER]

Attention: [SENIOR AUTHORITY OF COMPANY]

Copied to: [AS INDICATED]

E-mail: [EMAIL ADDRESS OF SENIOR AUTHORITY OF COMPANY]

or such other address and/or fax number as either Party may previously have notified to the other Party in accordance with this Clause 17.1.

17.2 Effectiveness of Service

Notice shall be deemed to be effective as follows:

- (a) in the case of personal delivery or registered mail, on delivery;
- (b) in the case of electronic mail, eight (8) hours following confirmed transmission and when sent after five (5) p.m. notice is deemed to have been given at eight (8) a.m. the following Business Day; and
- (c) in the case of facsimiles, [two (2) hours] following confirmed transmission and where sent after five (5) p.m. notice is deemed to have been given at eight (8) a.m. the following Business Day.

18. ACCOUNTS AND REPORTS

18.1 Appointment of Auditors

The Company shall make arrangements with respect to the installation and operation of an accounting and cost control system and for the appointment as auditors of a firm of reputable independent chartered accountants with offices in no fewer than fifty (50) countries including Guyana.

18.2 Right of Inspection

The Company shall promptly furnish to GPL such information as GPL may from time-to-time reasonably request and permit representatives of GPL on reasonable prior notice to visit the Site and shall have access to its operational and maintenance records.

18.3 Periodic Reports

18.3.1 The Company shall, as soon as available but in any event within one hundred and eighty (180) Days after the end of each Financial Year, furnish to GPL (a) two (2) copies of its complete financial statement for such Financial Year (which are in agreement with its books of accounts and prepared in accordance with accounting principles which are generally accepted in Guyana and consistently applied), together with an audited report thereon; (b) a report by the auditors certifying that, based on its said financial statements, the Company was in compliance with its financial obligations under the Loan Agreements as of the end of the relevant Financial Year or, as the case may be, detailing any non-compliance.

18.3.2 In the event that the Company shall become aware of any factors materially and adversely affecting or which might materially and adversely affect the Company's business and operations or its financial condition, the Company shall within [thirty (30)] Days after becoming so aware, furnish to GPL and the PUC a report certified by an officer of the Company setting out the details on the material issues.

18.4 Reporting of Changes

The Company shall, within fourteen (14) Days of any of the following becoming effective report any (a) change in its ownership agreement; (b) change in its Financial Year; (c) change in its owners; (d) change in its management; and (e) transfer of partnership interests to any person who thereby becomes an owner of more than five (5) percent of the ownership or voting rights of the Company or of a transfer of partnership interests to or from a person who, immediately prior to such transfer, held more than five percent (5%) of the ownership or voting rights of the Company.

18.5 Information re Statutory Notice/Winding Up Proceedings

18.5.1 The Company shall, within seven (7) Days of receipt thereof, provide a copy of any notice to GPL and the PUC that the Company may have been served by any of the Lenders or its creditors.

18.5.2 The Company shall provide to GPL to PUC all information in respect of any further actions taken by the Lenders or creditors following the notices described in Clause 18.5.1.

19. MISCELLANEOUS PROVISIONS

19.1 Variations in Writing

All additions, amendments or variations to this Agreement shall be binding only if in writing and signed by duly authorized representatives of both Parties.

19.2 Expenses

Each Party shall bear its own costs and expenses associated with negotiating, executing, and delivering this Agreement.

19.3 Severability

In the event that any one or more of the provisions of this Agreement shall be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or of the same provisions in any other jurisdiction shall not in any way be affected or impaired thereby.

19.4 Waivers

19.4.1 No Waiver by either Party of any default by the other in the performance of any of the provisions of this Agreement shall:

- (a) operate or be construed as a waiver of any obligation under this Agreement;
or
- (b) be effective unless in writing duly executed by an authorized representative of such Party.

19.4.2 The failure by either Party to insist on any occasion upon the performance of the terms, conditions or provisions of this Agreement or any other indulgence granted, or forbearance exercised by one Party to the other shall not thereby act as a waiver of any such breach or acceptance of any such variation.

19.5 Confidentiality

19.5.1 Each of the Parties shall hold in confidence all documents and other information, whether technical or commercial, relating to the design, financing, construction, ownership, operation, or maintenance of the Project that is of a confidential nature and that is supplied to it by or on behalf of the other Party. The Party receiving such documents or information shall not publish or otherwise disclose them or use them for its own purposes (otherwise than as may be required on a need-to-know basis by, its professional advisers, or potential lenders or investors in order to perform its obligations under this Agreement).

19.5.2 The provisions of Clause 19.5.1 above shall not apply to any information:

- (a) which is or becomes available to the public other than by breach of this Agreement;
- (b) which is in or comes into the possession of the receiving Party prior to the aforesaid publication or disclosure and which was or is not obtained under any obligation of confidentiality;
- (c) which was or is obtained from a third party who is free to divulge the same and which was or is not obtained under any obligation of confidentiality; or
- (d) which is required by law or appropriate regulatory authorities to be disclosed; provided that the Party supplying the information is notified of any such requirement at least five (5) Business Days prior to such disclosure and the disclosure is limited to the relevant legal requirements.

19.5.3 For the avoidance of doubt, nothing herein contained shall preclude the use of provisions similar to those contained in this Agreement and the other agreements referred to herein in any agreements prepared and issued in connection with other projects.

19.6 Successors and Assigns

This Agreement shall inure to the benefit of, and be binding upon, the successors and permitted assigns of the Parties.

19.7 No Liability for Review

No review or approval by GPL of any agreement, document, instrument, drawing, specifications or design proposed by the Company shall relieve the Company from any liability that it would otherwise have had for its negligence in the preparation of such agreement, document, instrument, drawing, specifications or design or from failure to comply with the applicable Laws of Guyana with respect thereto, nor shall

GPL be liable to the Company or any other person by reason of its review or approval of an agreement, document, instrument, drawing, specification, or design.

19.8 No Third-Party Beneficiaries

This Agreement is intended solely for the benefit of the parties hereto. Nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, any liability to, or any right of suit or action in, any person not a party to this Agreement.

19.9 Affirmation

The Company declares and affirms that it has not paid nor has it undertaken to pay any unlawful commission, bribe, pay-off or kick-back and that it has not in any other way or manner paid any sums, whether in Dollars or Guyana Dollars or other currency and whether in Guyana or abroad, or in any other manner given or offered to give any gifts and presents in Guyana or abroad, to any person or company and, generally, has not made any payment or accepted any gift or in any way whatsoever acted in breach of any obligation, prohibition or requirement of the Corruption Prevention Act, to procure this Agreement. The Company undertakes not to engage in any of the said or similar acts during the term of, and relative to, this Agreement.

GPL declares and affirms that it has not paid nor has it undertaken to pay any unlawful commission, bribe, pay-off or kick-back and that it has not in any other way or manner paid any sums, whether in Dollars or Guyana Dollars or other currency and whether in Guyana or abroad, or in any other manner given or offered to give any gifts and presents in Guyana or abroad, to any person or company and, generally, has not made any payment or accepted any gift or in any way whatsoever acted in breach of any obligation, prohibition or requirement of the Corruption Prevention Act, to procure this Agreement. GPL undertakes not to engage in any of the said or similar acts during the term of, and relative to, this Agreement.

19.10 Governing Law

The rights and obligations of the Parties under or pursuant to this Agreement shall be governed by and construed according to the Laws of Guyana.

19.11 Relationship of the Parties

This Agreement does not place and shall not be construed as placing the Parties in an employment relationship, in a partnership or joint venture relationship, or in a principal/agent relationship. Nothing in this Agreement shall be construed to grant any Party the right or authority to enter into any contracts, assume or create any obligation, express or implied, or make any other commitment in the name of or on behalf of another Party. Each Party agrees to indemnify and hold harmless the other

Party from any claim by a third party that the indemnifying Party has acted on behalf of the indemnified Party.

20. SCHEDULES

20.1 Schedule 1 – Definitions

Whenever the following terms appear in this Agreement or the schedules hereto, whether in the present, future, or past tense, they shall have the meanings stated below, unless the context otherwise requires.

“Abandonment” - Either (a) the cessation of substantially all activities relating to the construction or operation and maintenance of the Facility for a period greater than forty-eight (48) Hours, as appropriate, or (b) the physical absence of substantially all employees of the Company and its Contractors from the Site after the commencement of excavation for the foundations of the Facility for at least One Hundred Sixty-Eight (168) consecutive hours.

“Actual Initial Dependable Capacity” or “AIDC” - The Dependable Capacity of the Facility as actually tested in accordance with Schedule 3 on or before the Commercial Operations Date, or as subsequently re-declared in accordance with Schedule 3.

“Agreement” - This Power Purchase Agreement, including all Schedules thereto, as amended or supplemented from time to time.

“Agreement Criteria” - The requirements and other obligations set forth in **the Operating Procedures, the Interconnection Tripping Schedule, the Laws of Guyana and other applicable laws and governmental approvals, applicable industry codes, the reasonable requirements of the Company’s insurers, Prudent Utility Practice, and the other operating requirements set forth in this Agreement.**

“Agreement Date” - The date this Agreement is signed by both Parties.

“Allowable Error” - The smaller of the Primary or Backup Metering System’s meter’s maximum tolerable error level as stated by its manufacturer and +/-1%.

“Allowable Forced Outage Energy” - The product of the number of the agreed Forced Outage hours and the Dependable Capacity in kWh.

“Annual Projected Capacity Factor” - The expected energy production from the Facility for the upcoming Year (calculated based on the parameters specified in Clause 6.3.1 of the Agreement), divided by the product of the Dependable Capacity and 8,760 Hours.

“Arbitration Tribunal” - is a panel of one or more adjudicators which is convened

and sits to resolve a Dispute by way of arbitration.

“Backup Metering System” - The meter and metering devices used for backup purposes pursuant to Schedule 5

“Base Rate” - A rate of interest (i) equivalent to the Government of Guyana Treasury Bill Rate existing at the time of payment if payment is made in Guyana Dollars or (ii) equal to the [SPECIFY] Commercial Bank in Guyana, Prime lending rate for Dollars if payment is made in Dollars.

“Business Day” - A Day on which business by and between banks may be carried on in Georgetown, Guyana, but in no event shall it include a Saturday or Sunday or public holidays.

“Change in Environmental Law” - Any new Environmental Law or change in an existing Environmental Law after [BID REFERENCE DATE].

“Change in Relevant Law” - Any Change in Environmental Law or Change in Tax Law after [BID REFERENCE DATE].

“Change in Tax Law” - Any new Tax Law or change in existing Tax Law after [Bid Reference Date].

“Cold Start” - The start-up of a Unit is considered a “Cold Start” if the Facility output to the GPL Grid has been zero (0) MW for more than eight (8) consecutive hours prior to this start up.

“Commencement of Construction” - The initiation of the construction of the Facility, as evidenced by the Company’s (a) issuance of the Notice to Proceed, and (b) making of the initial payment to the respective Construction Contractor, in each case under the Construction Contract.

“Commercial Operations Date” - The date on which the Independent Engineer certifies in writing that the Facility has been commissioned subject to the conditions of Schedule 3

"Commissioned" - The Facility successfully completed the Commissioning activities within the contracted requirements.

“Commissioned Shortfall” - The difference between (i) the Initial Declared Dependable Capacity of the Facility as set on the Commercial Operations Date or as re-declared in accordance with Schedule 3, if less than the Contracted Dependable Capacity, and (ii) the Contracted Dependable Capacity.

"Commissioning" - Engaging in the operations and activities required for testing in accordance with Schedule 3 to determine if the facility meets the contracted

requirements.

“Commissioning Schedule” means the time and activities schedule to be agreed between the Company and GPL to undertake the testing and commissioning set forth in Schedule 3

“Company Event of Default” - An event described in Clause 14.1 for which GPL may issue a GPL Notice of Default.

“Company Notice of Default” - A notice of default issued by the Company to GPL pursuant to Clause 14.2 and which notice shall state that it is a “Notice of Default”.

“Facility” - Combination of Plants, buildings and auxiliary equipment on the Company’s side of the Interconnection Point required to provide the Net Energy Output to GPL Grid and necessary for the Company to honour its obligation under the terms and conditions of this Agreement.

“Consenting Party” - The Party whose consent is being sought.

“Construction Contract” - **One or more** agreements entered into by the Company for the design, manufacture, construction, and commissioning of the Facility.

“Construction Contractor” - The party or parties to a Construction Contract other than the Company.

“Construction Security Deposit” - A commercial instrument provided by the Company pursuant to Clause 9.4.7(a) for remedying any liability, obligation or responsibility arising during construction and Commissioning of the Facility.

“Contracted Dependable Capacity” - **The net capacity of [PLANT CAPACITY IN MEGAWATTS] MW to be delivered at the Interconnection Point as per this Agreement.**

“Contractor” - Any contractor employed by the Company in the design, manufacture, construction, operation or maintenance of the Facility or any part thereof, and any direct or indirect subcontractor of such contractors.

“Control Centre” - **GPL’ System** Control Centre located in Georgetown, Guyana, or such other control Centre designated by GPL from time to time (but not more than one at any time) from which GPL shall Dispatch the Facility.

“Control Room” - The Company’s operation Centre located on the Facility, or such other location designated by the Company from time to time, from which the operation of the Facility is monitored and controlled by the Company.

“Damages” - Any actual damages agreed upon by the Parties or established

pursuant to any dispute resolution procedure described in Clause 15.

“Day” - The **twenty-four (24)**-hour period beginning and ending at 12:00 midnight Guyana Time.

“Default Rate” - The Base Rate plus two (2) percentage points.

“Dependable Capacity” - **The amount of sustained capacity in kW from the Facility after the Commercial Operations Date as determined by testing from time to time in accordance with Schedule 3.**

“Dispatch” - The instructions issued by GPL from the Control Centre in accordance with **this** Agreement for the Company to schedule and control the generation of the Facility in order to increase or decrease the electricity delivered to the GPL Grid.

“Dispatch Deviation Statement” - **The meaning ascribed thereto in Clause 9.5.1.**

“Direct Contractor” - Any contractor other than the Construction Contractor or O&M Contractor employed directly by the Company in the design, manufacturer, construction, operation or maintenance of the Facility or any part thereof.

“Dispute” - The meaning ascribed thereto in Clause 15.1.

“Dollars” or **“\$”** - The lawful currency of the United States of America.

“Emergency” - A condition or situation that, in the reasonable opinion of GPL, does materially and adversely, or is likely materially and adversely to (i) affect the ability of GPL to maintain safe, adequate, and continuous electrical service to its customers, or (ii) endanger the security of person, plant or equipment.

“Environmental Law” - Any Law of Guyana which impacts or affects present or future national, local, or other lawful environmental requirements applicable to the Company or the Facility and the environmental guidelines of the World Bank applicable to, or otherwise binding upon, the Company or the Facility.

“Event of Default” - shall mean a Company Event of Default or GPL Event of Default or both subject to the context within which it is being used.

“Final Liquidated Damages Invoice” - **The meaning ascribed thereto in Clause 9.5.2.**

“Financial Closing” - The signing of the Loan Agreements for financing of the Facility.

“Financial Year” - The period from January 1st to December 31st or such other period as may be selected by the Company in respect of which the audited accounts

of the Company shall be made up.

“Fixed Payment” – The amount which GPL will pay the Company each Month for Dependable Capacity in accordance with Section 9 as determined in accordance with Schedule 2 hereto.

“Fixed Payment Price” – The price equal to the Fixed Payment for a given Month divided by the Average Dependable Capacity (as defined in Schedule 2) for that Month.

“Forced Outage” – Any partial or complete Interruption of the generating capacity of the Facility that is not the result of (i) a request by GPL in accordance with this Agreement; (ii) a Scheduled Outage or a Maintenance Outage; or (iii) an event or occurrence of Force Majeure.

“Force Majeure” – Any event or circumstance or combination of events or circumstances beyond the reasonable control of a Party which materially and adversely affects the performance by that Party of its obligations or the enjoyment by that Party of its rights under or pursuant to this Agreement. Without limitation to the generality of the foregoing, “Force Majeure” shall include the following events and circumstances to the extent that they satisfy the above requirements: (a) natural events including, but not limited to, (i) acts of God, or (ii) epidemic or plague; and (b) other events of Force Majeure including, but not limited to, (i) acts of war, invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, civil commotion, act of terrorism, or sabotage, (ii) nationwide strikes, works to rule or go-slows, and (iii) the making of, or any change in, any Laws of Guyana or any laws of any other jurisdiction after the Agreement Date materially and adversely preventing performance. Force Majeure shall expressly exclude the following conditions, except to the extent resulting from a Force Majeure: (w) unavailability, late delivery or changes in cost of plant, machinery, equipment, materials, spare parts, Fuel or consumables for the Facility; (x) a delay in the performance of any Contractor; (y) non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment; and (z) non-performance caused by the non-performing Party’s (i) negligent or intentional acts, errors or omissions, (ii) failure to comply with any of the Laws of Guyana, or (iii) breach of, or default under, this Agreement.

“Fortnightly Projected Dispatch” – The meaning ascribed thereto in Clause 6.1.2.

“Fuel” – [Specify fuel type] with the specifications as provided in Clause [X] of Schedule [Y] which shall be used for the operation of the Facility.

“Fuel Supply Agreement” – Any agreement entered into by the Company for the purchase of Fuel.

“Fuel Supply Plan” – The Company’s plan for providing Fuel to the Facility to ensure the operation of the Facility in accordance with the terms and provisions of this Agreement. The Fuel Supply Plan shall include, but not be limited to, the Company’s proposed Fuel Supply, storage and transportation arrangements and the Company’s plans to obtain Fuel on the most economic basis at any given time and shall be reasonably satisfactory to GPL if such plan is in accordance with Prudent Utility Practice.

“General Partner” – [Licencee’s Partners]

“Generation Code” – The generation code as approved by the PUC and revised from time to time.

“GPL Event of Default” – An event described in Clause 14.2 for which the Company may issue a Company Notice of Default.

“GPL Grid” – The transmission and distribution facilities on GPL’ side of the Interconnection Point through which the output of the Facility will be distributed by GPL to users of electricity.

“GPL Licence” – The Licence to Supply Electricity for Public Purposes, 1999 together with any extensions, variations or amendments or other licence(s) granted to GPL under the Electricity Sector Reform g Act 1999.

“GPL Notice of Default” – A notice of default issued by GPL to the Company pursuant to Clause 14.1 and which notice shall state that it is a “Notice of Default”.

“Guyana Dollars” or **“G\$”** – The lawful currency in Guyana.

“Heat Rate” - The number of British Thermal Units (BTU) required to produce one kilowatt hour of energy at the Facility.

“Independent Engineer” – The independent licensed professional jointly selected by the Parties who, among other things, shall receive copies of all test results performed pursuant to Schedule 3 on the Facility for the purpose of certifying in writing that the Facility can be satisfactorily Commissioned. The fees charged by the Independent Engineer shall be borne by the Company.

“Initial Declared Dependable Capacity” – The Dependable Capacity of the Facility as declared by the Company on the Commercial Operations Date or as re-declared in accordance with Schedule 3 and shall not be greater than the lower of the Actual Initial Dependable Capacity and the Required Dependable Capacity of the Facility.

“Interconnection Criteria” – The meaning ascribed thereto in Clause 7.1.4

“Interconnection Facilities” – All the facilities to be constructed by or for the

Company at the Company's sole cost, to enable GPL to receive power from the Facility in accordance with this Agreement.

"Interconnection Point" – The physical point where the Facility and the GPL Grid System are connected as specified in Schedule 3.

"Interconnection Tripping Schedule" – The inter-tripping logic to be developed to indicate protection relays and their proposed settings for electrical protection of the Facility and the interconnection of the Facility to the GPL Grid.

"Interruption" – Any deviation of the Facility from Dispatch.

"Invoice Exchange Rate" - The spot market weighted average of the "selling" rates of exchange of authorized dealers in Guyana offering to sell Dollars for Guyana Dollars as expressed in Guyana Dollars per Dollar and as issued by the Bank of Guyana on the Day that is three (3) Business Days preceding the Statement and payment due date in accordance with clause 9.6.1.

"Invoice Exchange Rate for Liquidated Damages" – The spot market weighted average of the "selling" rates of exchange of authorized dealers in Guyana offering to sell Dollars for Guyana Dollars as expressed in Guyana Dollars per Dollar and as issued by the Bank of Guyana the last Day of the period for which damages are being billed.

"kW" – Kilowatt(s).

"kWh" – Kilowatt-hour(s).

"Laws of Guyana" – The laws of Guyana and all proclamations, rules, regulations, subsidiary legislation, notifications, orders, directives, and policies made pursuant thereto.

"Lenders" – The lenders party to the Loan Agreements and the persons who **from time to time** make other credit facilities available to the Company.

"Liquidator" - Such person appointed by the Court, members, or creditors for the purpose of winding up the Company's or GPL's operations.

"Liquidated Damages Claim Deadline" – The meaning ascribed thereto in Clause 9.5.3.

"Liquidated Damages Due Date" – The meaning ascribed thereto in Clause 9.5.2.

"Loan Agreements" – The agreements executed between the Company and the Lenders pursuant to which the credit facilities are made available by the Lenders to the Company for the implementation of the Project.

“Maintenance Outage” – An Interruption or reduction of the generating capability of a Unit or the Facility that (a) is not a Scheduled Outage; (b) has been scheduled and allowed by GPL in accordance with Clause 6.4; and (c) is for the purpose of performing work on specific components, which work could be postponed by at least six (6) Days but could not be postponed until the next Scheduled Outage.

“Major Maintenance” – A planned outage due in 12,000 Unit Running Hour cycles and can occur on a Unit (maintenance typically lasting 15 to 21 Days) or on a Turbocharger (maintenance typically lasting 3 Days).

“Material Agreements” – This Agreement, the PPA Original Support Documents, the PPA Amended Support Documents and the Loan Agreements.

“Metering System” – All meters and metering devices used to measure the delivery and receipt of Net Energy Output and Dependable Capacity in accordance with this Agreement.

“Minimum Fuel Inventory” – The minimum Fuel quantity required to allow operation of the Facility at full load for ten (10) Days without new Fuel delivery.

“Minimum Functional Specifications” – The minimum functional specifications for the construction of the Facility as set forth in Schedule 6.

“Month” – A calendar month according to the Gregorian calendar beginning at 12:00 midnight on the last Day of the preceding month and ending at 12:00 midnight on the last Day of that month.

“Monthly” – Anything calculated or occurring according to a Month Period.

“MVAR” – Megavar(s).

“MW” – Megawatt(s).

“Net Energy Output” – Net energy delivered by the Company for sale to GPL at the Interconnection Point in accordance with GPL Dispatch.

“Notice of Default” – The meaning ascribed thereto in Clause 14.3.1.

“Notice of Intention to Defend” – The meaning ascribed thereto in Clause 15.2.3.

“Notice of Intention to Refer” – The meaning ascribed thereto in Clause 15.2.2.

“Notice to Proceed” – The meaning ascribed thereto under the applicable Construction Contract.

“Off-Peak Hours” – The hours between 00:01a.m. and 8:59a.m., 9:01p.m. and

12:00a.m. on Monday to Friday; 00:01a.m. and 12:00a.m. on Saturdays, Sundays and public holidays.

“O&M Contract” – The agreement, **if any**, between the Company and the O&M Contractor for the operation and maintenance of the Facility.

“O&M Contractor” – The company which the Company may from time to time appoint to operate and maintain the Facility.

“On-Going Dependable Capacity Shortfall” – The amount, if any, by which the Dependable Capacity of the Facility is below the Initial Declared Dependable Capacity of the Facility as determined by testing in accordance with Schedule 3.

“Operating Committee” – The committee established pursuant to Clause 6.7 for the purpose of determining operating standards and procedures for the Facility.

“Operating Procedures” – **The meaning ascribed thereto in Clause 4.3.1.**

“Operations Security Deposit” – The meaning ascribed thereto in Clause 9.4.7(c)

“PUC” – The meaning ascribed thereto in Clause 3.2.

“Owner” – [Licencee’s Owners]

“Peak Hours” – The hours between 9:00 a.m. and 9:00 p.m. Monday to Friday.

“Peak Months” – The Months of July, August, November and December, or as designated in accordance with Clause 6.3.4 from time to time.

“PPA Amended Support Documents” – The meaning ascribed thereto in Clause 4.2.

“PPA Original Support Documents” – The meaning ascribed thereto in Clause 4.2.

“Primary Metering System” – All meters and metering devices designated as the primary used to measure the delivery and receipt of Net Energy Output and Dependable Capacity in accordance with Schedule 5.

“Project” – The design, financing, construction, ownership, operation and maintenance of the Facility and all activities incidental thereto.

“Proposed Fortnightly Availability” – The meaning ascribed thereto in Clause 6.1.2.

“Provisional Liquidated Damages Invoice” – **The meaning ascribed thereto in Clause 9.5.2.**

“Prudent Utility Practices” – The practices generally followed by the electric utility industry with respect to the design, construction, operation, and maintenance of electric generating, transmission, and distribution facilities, including, but not limited to, the engineering, operating, and safety practices generally followed by such utility industries.

“Public Sector Entity” – Any department, authority, instrumentality or agency of the Government of Guyana which is owned or controlled by the Government of Guyana.

“Quarter” – A calendar quarter according to the Gregorian calendar beginning on the first (1st) Day of January, April, July or October and ending on the last Day of March, June, September or December, respectively.

“Reactive Power” – The wattless component of the product of voltage and current, which the Facility shall provide to or absorb from the GPL Grid System, and which is measured in MVAR.

“Required Commercial Operations Date” – [JANUARY 2, 2013] or such date as may be equitably extended pursuant to: (a) Clause 13 upon one or more events of Force Majeure or (b) Clause 9.4.1.

“Required Fuel Storage Capacity” – The meaning ascribed thereto in Clause 6.6.1.

“Retained Amount” – The meaning ascribed thereto in Clause 9.3.

“SCADA” – Supervisory Control and Data Acquisition System.

“Scheduled Commercial Operations Date” – The date on which the Company anticipates that the Commercial Operations Date shall occur, as notified to GPL pursuant to Clause 4.2.1.

“Scheduled Outage” – A planned partial or complete Interruption of the generating capability of a Unit or of the Facility that (i) is not a Maintenance Outage; (ii) has been scheduled and allowed by GPL in accordance with Clause 6.3; and (iii) is for inspection, testing, preventive maintenance, corrective maintenance or improvement.

“Site” – The land and any rights to be utilized for the purposes of designing, financing, constructing, owning, operating and maintaining the Facility.

“Spinning Reserve” – The difference between the synchronized capacity and the actual MW loading of the Facility and is activated by placing the Units on automatic governor control.

“Statement” – The meaning ascribed thereto in Clause 9.6.1.

“System Load Profile” – Variation in the system load over a 24-hour cycle for a given period.

“Tax Law” – Any Law of Guyana which impacts or affects present or future national, local, or other lawful taxes, duties or levies applicable to the Company, the Project or the Company’s other assets.

“Unit” – Each of the generating units that form a part of the Facility.

“Unit Hour” – Each hour of partial or complete Interruption of the operation of a Unit.

“Unit Running Hours” – The operating hours accumulated on each unit since the Commercial Operations Date.

“Variable Payment” – The price which GPL will pay to the Company per kWh for Net Energy Output delivered from the Facility to GPL, in accordance with GPL Dispatch instructions, each Month as measured in accordance with Clause 9.2 and Schedule 5 and as calculated in accordance with Article 9 and Schedule 2.

“World Bank” – Is an international financial institution that provides loans to developing countries for capital programs.

“Year” – Each twelve (12) Month period commencing on 12:00 midnight on December 31 and ending on 12:00 midnight the following December 31 during the term of this Agreement.

20.2 Schedule 2 – Calculation of Payments

This schedule defines the calculation of payments to Developer.

20.2.1 Section 1: Summary of Payments Due to Developer and Utility

All payments, prices, charges and amounts are in Guyanese Dollars and are payable in Guyanese Dollars.

Payments shall be made to the Developer for energy supplied to the Utility. There shall be no fixed payments and no guarantee of energy purchase. For avoidance of doubt, there shall be no “minimum take” or “take or pay” with respect to energy to be provided by the Developer.

Variable Payment Price Components

The Variable Payment Price components shall be as shown in Table 1.1 below.

Table 1: Variable Payment Components

| Price Component | Peak Price US\$/MWh | Off-Peak Price US\$/MWh |
|------------------------|-----------------------------------|-----------------------------------|
| Energy Price | | |
| O&M Price | | |
| Fuel Price | Please see Section 2 below | Please see Section 2 below |

20.2.2 Section 2: Methodology

The Variable Payment for each Month commencing in the Month in which the Commercial Operations Date occurs is determined as follows:

$$\begin{aligned}
 \text{Variable Payment (VP}_m) &= \text{Variable Energy Charge (VEC}_m) \\
 &\quad + \text{Variable O\&M Charge (VOMC}_m) \\
 &\quad + \text{Variable Fuel Charge (VFC}_m).
 \end{aligned}$$

$VEC_m = PEP \times PNEO_m + OPEP \times OPNEO_m$
 $PEP = 2150.00$ G\$/MWh, the Peak Energy Price
 $OPEP = 2150.00$ G\$/MWh, the Off-Peak Energy Price
 $PNEO_m =$ Peak Net Energy Output for Month_m, which shall be the number of MWh supplied during the hours of 18:00 to 22:00 on workdays at or below the Dispatch Level requested by Utility. $PNEO_m$ shall not include energy provided above the Dispatch Level requested by Utility and Developer shall not be paid for any such energy.
 $OPNEO_m =$ Off-Peak Net Energy Output for Month_m, which shall be the number of MWh supplied outside of the hours of 18:00 to 22:00 on workdays at or below the Dispatch Level requested by Utility. $OPNEO_m$ shall not include energy provided above the Dispatch Level requested by Utility and Developer shall not be paid for any such energy.

$VOMC_m = POMP \times PNEO_m + OPOMP \times OPNEO_m$
 $POMP = 6450.00$ G\$/MWh, the Peak O&M Price
 $OPOMP = 4300.00$ G\$/MWh, the Off-Peak O&M Price

$VFC_m = VFP_m \times NEO_m \times FCR$
 $NEO_m = PNEO_m + OPNEO_m$
 $FCR = 52$ imperial gallons per MWh, the Fuel ConsumptionRate (FCR). Provided that the FCR may be

revised if test results verified by the Utility indicate a different rate; Provided further, that FCR shall not exceed

52.8 gallons per MWh.

$VFP_m =$ The Variable Fuel Price for Month_m in Guyanese Dollars per imperial gallon which shall be determined as follows:

20.2.3 Determination of VFP_m, the Variable Fuel Price for Month_m.

VFP_m shall be the average price paid by Developer for Heavy Fuel Oil (HFO) procured during the Month prior to Month_m. The weighted average price, supported by invoices, receipts and any

other evidence reasonably required by Utility, shall be communicated to Utility during the first Day of Month_m.

Provided that, if permitted and the Utility supplies HFO to Developer prior to Month_m for the purpose of producing NEO_m for delivery to Utility, VFP_m shall be the price paid to the Utility for fuel, including reasonable administrative and transportation costs.

Provided further that, if permitted, Utility may provide HFO to Developer in lieu of paying the VFC_m. In this respect, the equivalent amount of fuel due to Developer for energy provided during Month_m shall be determined as follows:

$$EAFD_m = \text{NEO}_m \times \text{FCR}$$

EAFD_m = The equivalent amount of fuel due for Net Energy received during Month_m in imperial gallons.

20.3 Schedule 3 - Testing and Commissioning

Developer shall, at its own expense, carry out the testing and Commissioning of the Facility and the Interconnection Facilities in accordance with the provisions of this Schedule 3, the specifications set out in Schedule 6 (Technical Specifications), and Prudent Utility Practice. Utility shall be given five (5) Days prior written notice of any testing or Commissioning procedure and Utility shall be entitled to have representatives present for purposes of observing any such procedures. If Utility representatives are unable to attend for any reason, the testing may proceed without them.

20.3.1 Test prior to initial commercial operation such as initial tests, energizing tests, synchronizing tests, as agreed between Developer and Utility based on design.

20.3.2 Testing and guarantees such as acceptance and performance tests, reliability

tests, capacity tests, Net Electrical Output tests, as agreed between Developer and Utility based on design.

20.3.3 Testing of Interconnection Facilities and Transmission/Distribution Line such as testing of transformers, cables, protection and monitoring equipment, communication equipment, transmission/distribution lines, as agreed between Developer and Utility based on design.

20.3.4 Testing of Metering System as agreed between Developer and Utility based on design.

20.4 Schedule 4 – Interconnection Facilities

20.4.1 Developer’s Interconnection Facilities

- (a) The 69kV Interconnection line shall be provided by the Utility at a location in close proximity to the Facility. The Interconnection Point shall be in the form of a pole structure with switching equipment necessary to separate the Facility from the Utility’s Grid, and any associated system protection devices. The Interconnection Point shall also include the Metering System owned by the Utility and may include a Backup Metering System if it is owned by the Utility. Utility shall provide a feeder circuit for delivery of energy from the Interconnection Point to the Utility Grid. Developer shall be responsible for development of the Interconnection Facility on its side of the Interconnection Point, and for any modifications required within the Facility.
- (b) Developer shall work jointly with the Utility to design the Interconnection Facility.
- (c) Utility shall provide its expertise and Grid requirements for the Interconnection Facility.
- (d) Developer shall procure, construct and install the Interconnection Facilities
- (e) including all switchgear, power transformers, interconnection circuits which can be overhead lines, underground cables, equipment buildings and foundations, line foundations, steel work, manual disconnect switch, grounding system, current and potential transformers, auxiliary systems, data transfer and data communication facilities, all in accordance with general requirements as approved by Utility.
- (f) All facilities as described above and as required between the Interconnection Point (excluding Interconnection Point itself) and Developer’s Facility shall be designed, procured, constructed, and commissioned by Developer at its own expense. Each Party shall own, operate, and maintain all the facilities on its side of the Interconnection Point. The Utility shall own, operate, and maintain the Interconnection Point itself.

20.4.2 Utility’s Responsibilities

- (a) Utility will use its best endeavour to assist the Developer in obtaining, in a timely manner and at a reasonable cost, all permits, permissions and way leaves necessary for the construction of the Interconnection Facilities and associated equipment. Such assistance shall not be unreasonably withheld. The reasonable expenses of Utility’s assistance shall be the responsibility of Developer.

- (b) Utility will, at its own expense, be responsible for the design, construction, installation, Commissioning and testing of any Utility Grid additions and modifications needed to connect the Facility to Utility's Grid up to and including the Interconnection Point. Utility shall own, operate, and maintain all lines, equipment, and devices on the Utility side of the Interconnection Point, including the Interconnection Point. All equipment on the Developer side of the Interconnection Point shall be the responsibility of the Developer.

20.4.3 Operation and Maintenance

- (a) Developer shall, at its own expense, operate and maintain Interconnection Facilities (as described in 4.1 of Schedule 4) on the Developer's side of the Interconnect Point. Developer may not modify or replace the Interconnection Facilities described in 4.1 of Schedule 4 above without the prior written consent of Utility.
- (b) Developer shall consider that the Interconnection Facilities will be connected to the existing Electrical System of Utility, at 69 kV, where existing standards and procedures are in place and as such the Developer's Operational and Safety Procedures shall be adapted to the existing situation at Utility. This also includes that - next to following the existing Utility procedures - the Developer's personnel in charge with operating and switching of equipment in the Developer's Electrical System shall be trained and certified similar to operational personnel at Utility.

20.4.4 Interconnection Protection and Control

- (a) Developer shall coordinate its protection scheme and protective relay settings with Utility, and the protective relay settings shall be subject to Utility approval. The protection system shall be provided by Developer:
- (b) Utility's System Protection and Control Department shall approve the final design of Developer's interconnection protection scheme for the Facility and Interconnection Facility to Utility's Grid.
- (c) Utility will provide its requirements of data communication with the Facility for the purpose of monitoring and control of the Facility's connection to Utility's Grid.
- (d) Testing and Commissioning of the Connection Equipment. The connection equipment and transmission/distribution lines shall be tested and commissioned in accordance with Schedule 3.

20.5 Schedule 5 – Metering

20.5.1 Metering Equipment and Accuracies

- (a) The Utility shall design, construct, install, own, operate and maintain the Metering System to be installed at the Interconnection Point. The Utility shall also be responsible for the Backup Metering System if the Utility decides to install its own Backup Metering System at the Interconnection Point. Utility shall bear the cost of developing, owning, operating, and maintaining such meters after the Commercial Operations Date.
- (b) The Metering System and the Backup Metering System (each, a "meter" and together, the "meters") shall each meet the following specifications at all times during the term of this Agreement.
- (c) The Metering System owned by Utility shall be constructed to accumulate both active and Reactive Power/energy outputs and inputs as measured at the Interconnection Point.
- (d) The Metering System shall measure on a daily basis active and Reactive Power/energy in both directions. The accuracy of the Metering System components shall be:

Voltage and current transformers: class 0.2

kWh meter: class: 0.2

kVArh meter: class 2

- (e) Maximum voltage deviation caused by wiring: magnitude 0.02%, angle 1 minute
- (f) All metering and accumulating equipment shall have sufficient accuracy so that any error resulting from such equipment shall not exceed the lesser of 0.2% of full-scale rating or the equipment manufacturer's stated maximum tolerable error level (the "Allowable Error").
- (g) Separate voltage and current transformers and cables connecting to meters shall be dedicated for each meter and such cables and connections sealed.

20.5.2 Sealing, Field Testing, and Inspection

- (a) The Developer and the Utility prior to the Performance Testing (Schedule 3) shall be present during accuracy/calibration tests on the Metering System, by the equipment maker's representative. Additionally, the Utility may test the Metering System as frequently as Utility desires, after giving the Developer

sufficient notice but in no case less than seven (7) Days advance notice. Developer may have a representative present during any such testing, as well during any inspection as well as during inspection of the Metering System or adjustment thereof.

- (b) Utility shall test the Metering System at any other time reasonably requested by the Developer. Developer shall compensate the Utility for such additional testing, provided however if the test indicates that the Metering System when referred to datum is inaccurate by the more than zero point two percent (0.2%) then Utility will pay for the additional test. Developer may have a representative present during any such testing, as well as during any inspection of the Metering System or adjustment thereof.
- (c) After any testing or recalibration of the Metering System, the Metering System shall be sealed by both Parties, in the presence of both Parties.
- (d) Repair, Replacement or Recalibration of Metering System. When any component of the Metering System is found to be outside the specified limits of accuracy or otherwise not functioning properly, the Utility shall forthwith repair, re-calibrate, or replace such component of the Metering System at its expense. Upon the completion of any examination, maintenance, repair or recalibration of, or replacement of any component in the Metering System, the Metering System shall be sealed by both Parties in the presence of both Parties.
- (e) Seals shall be broken by both Parties jointly when either meter is to be inspected, tested or adjusted. Utility shall notify Developer in advance of such inspection, testing or adjustment, and Developer shall be allowed to have a representative present.
- (f) Utility shall test both meters within 10 Days after (a) the detection of a difference larger than the Allowable Error in the readings of the meters, (b) the repair of all or part of a meter caused by the failure of one or more parts to operate in accordance with the specifications; and (c) each anniversary of the Commercial Operations Date. If any errors in the readings of the meters are discovered by such testing, the Utility shall repair, recalibrate, or replace the meter and shall give the Developer reasonable advance notice so that Developer may have a representative present during any such corrective activity.
- (g) Measurement of Net Energy Output. If the Metering System is found to be inaccurate by more than the Allowable Error or to otherwise have functioned improperly during the previous Month, then the correct amount of Net Energy Output for the actual period during which inaccurate measurements, if any, were made shall be determined as follows:

- (h) First, the reading of the Backup Metering System shall be utilized to calculate the correct amount of dependable capacity and Net Energy Output, unless a test of such Backup Metering System, as defined in Article 7.1, which may be required by either Party, reveals that the Backup Metering System is inaccurate by more than the Allowable Error or is otherwise functioning improperly.
- (i) If the Backup Metering System is not within the acceptable limits of accuracy or is otherwise functioning improperly, then Developer and Utility shall jointly prepare an estimate of the correct reading on the basis of all available information and such guidelines as may have been agreed to between Developer and Utility at the time the reading is taken.
- (j) If Utility and Developer fail to agree upon an estimate for the correct reading, then the matter may be referred by either Party for determination by arbitration pursuant to Article 14 (Resolution of Disputes) of this Agreement.
- (k) Parameters and Procedures for Meter Reading. The following parameters shall be read and recorded each month for each demand interval.

Active energy (MWh) OUT

Active energy (MWh) IN

Reactive energy (MVArh) OUT

Reactive energy (MVArh) IN

Maximum active power demand (MW) OUT

Maximum active power demand (MW) IN

Maximum Reactive Power demand (MVAR) OUT

Maximum Reactive Power demand (MVAR) IN

Meter Reading

- (l) Utility shall read the appropriate meter the last Business Day of each Billing Period.
- (m) As a backup to the manual records of the demands actually experienced throughout the month, both meters shall be equipped with a memory module of sufficient size which will record the data produced during each demand interval.

20.6 Schedule 6 – Interconnection Design and Technical Specifications

20.6.1 Description of the Facility and Interconnection Facility

The Developer shall develop design drawings and technical specifications for review and approval by Utility, which approval shall not unreasonably be withheld:

- General description such as type of power generation, plant configuration and requirements, if needed fuel supply, location, ambient and reference conditions, gross performance, net output, internal consumption, ratings.
- Capacity of the Facility at reference conditions, performance curves, partial load curves, power factor, losses at different power factors etc.
- Design data of diesel engines and generators.
- Telecommunications and interface with Control Centre of Utility. Such equipment may include telemetering and data interface equipment, a PBX, radio or similar system to permit voice communications between the Facility and the Control Centre and telecopying equipment.
- Interconnection Facility, including protection systems, switch gear, transformer, and measurement equipment.
- Installation and coordination with Utility to implement the interconnection.
- All civil works shall be designed to meet all local and governing codes.
- Fencing to surround the switchyard to protect bystanders. The fence will have all applicable grounding to meet local and governing codes.
- Developer shall furnish the Interconnection Facility design details to Utility when the design is complete.

20.6.2 Codes and Standards

All individual components of the Interconnection Facility shall be designed, constructed, installed, tested, and commissioned in accordance with the National Grid Code, which is incorporated herein to this Agreement by reference. Where any language in the Agreement conflicts with the National Grid Code, the language in the Grid Code shall prevail, except that Utility shall have the discretion to waive

any terms that it has determined will not materially impact the reliability or safety of Utility's Grid.

Additionally, the current edition at the time of construction of the following codes and standards (or their international equivalents), as applicable, and Prudent Utility Practice

may apply to new modifications to Developer's Facility for the purpose of supplying Utility, and the Interconnection Facilities:

| | |
|-------------|---|
| <i>IEEE</i> | <i>Institute of Electrical and Electronic Engineers</i> |
| <i>ISO</i> | <i>International Organization for Standards</i> |
| <i>NEC</i> | <i>National Electric Code</i> |
| <i>NEMA</i> | <i>National Electrical Manufacturers Association</i> |
| <i>NESC</i> | <i>National Electric Safety Code</i> |
| <i>NETA</i> | <i>National Electric Testing Association</i> |
| <i>NFPA</i> | <i>National Fire Protection Association</i> |
| <i>IEC</i> | <i>International Electrotechnical Commission</i> |

20.6.3 Operation Requirements

The Facility and Interconnection Facility shall be designed so that construction, operation, and maintenance should be possible without adversely affecting the operations of Utility.

The Facility shall be capable of operating in parallel with the Utility's Grid.

20.6.4 Design Limits

- Developer shall have equipment that will allow it to supply its Reactive Power (MVAR's) requirements and simultaneously supply capacity and energy to the Utility's Grid with a power factor of 0.80 lagging.
- The Facility shall be able to operate at frequencies between 57.7 and 63 hertz, outside which the Developer shall separate the Facility from the Utility's Grid.
- The voltage at the Interconnection Point shall be maintained at 13,800 volts +/- 5%.
Voltage fluctuations may be noticeable as visual lighting variations (flicker) and can damage or disrupt the operation of electronic equipment. IEEE Standard 519 and IEC 61000-3 provide definitions and limits on acceptable levels of voltage fluctuation. Loads or system connections to the Utility's Grid shall comply with the limits in these standards.
- Power quality

Design considerations should include applicable standards including, but not limited to IEEE Standards 142, 519, 1100 1159, 1547, and ANSI C84.1.

Harmonic distortion has to be compliant with IEC 61000-2-12.

- Reactive Power

Each entity shall provide for its own Reactive Power requirements, at both leading and lagging Power Factors unless otherwise specified by parties. Utility might require Developer to minimize exchange of Reactive Power with Utility's system, especially

under peak load conditions. This can be accomplished by installing equipment to allow matching of internal supply and demand of Reactive Power.

- Developer shall advise Utility of any operating constraints and limits, which may from time to time, apply to the Facility.

20.6.5 Environmental Requirements

The design, construction and operation of the Facility shall comply with all applicable national and local Laws and regulations of the relevant Government authorities. Developer shall provide proof of compliance with these Laws and regulations.

20.6.6 Security

Developer shall, at its own expense, equip the Facility with appropriate lighting and security systems.

20.6.7 Safety

Developer shall comply with all Laws and regulations regarding safety on the Facility including, but not limited to, Prudent Utility Practice. The Parties agree that Utility personnel entering the plant will adhere to all safety, drug and alcohol constraints that the Developer requires.

20.7 Schedule 7 – Operating Committee

20.7.1 Appointment of Committee

Within fourteen (14) Days of the date of this Agreement, the Parties shall form an Operating Committee for day-to-day management of the interchange agreement. Each Party shall appoint one representative and an alternate for the Operating Committee. GPL shall appoint a Chairman who shall also serve as a third voting member of the Operating Committee. Within fourteen (14) Days of the date of this Agreement, each Party shall provide to the other Party notice of the appointment of its Operating Committee representative and their particulars. The first meeting of the committee shall be convened no later twenty one (21) Days after the date of this Agreement. The committee shall maintain and adopt an appropriate record of its deliberations, which record shall in the event of a Dispute constitute conclusive evidence of the decisions taken in respect of the subject matter therein.

20.7.2 Responsibilities

The Operating Committee shall be responsible for (a) coordinating the construction schedules of each Party's portion of the Interconnection Facilities and any required modifications to the Utility Grid, and (b) ongoing coordination of areas of mutual interest and concern involving the Facility and the Interconnection Facilities. Without limiting the generality of the foregoing duties, the Committee shall:

- Coordinate the respective programs of the Parties for the design, construction, installation, Commissioning and testing of facilities and equipment, and the respective Commissioning procedures;
- Develop steps to be taken on the occurrence of any event of Force Majeure, or the shutdown or reduction in capacity for any other reason of the Facility or the Interconnection Facilities;
- Coordinate the scheduling of maintenance affecting the operations of the Facility;
- Coordination of changes in either the Facility or the Interconnection Facilities to effect the operational requirements of Utility's control of Utility's Grid;
- Develop operating procedures, including plans for operating the Facility during

anticipated types of Emergencies (Article 8.4).

- Address safety matters affecting the Parties, their Contractors and their respective employees as related to the Facility and the Interconnection between the Facility and the Utility Grid;
- Recommend to the Parties changes regarding the responsibilities of the Operating Committee.

20.7.3 Procedures

The Operating Committee shall only act by unanimous agreement. The Committee shall develop and implement written policies regarding the frequency of meetings and minutes of meetings. The Operating Committee shall not have authority to modify or alter the rights and obligations of the Parties under this Agreement.

20.7.4 Reporting Relationships.

Members of the Operating Committee shall be representing the Developer and Utility respectively. The Operating Committee as a whole will report its activities and recommendations to both Parties, and others designated by the Parties.

20.7.5 Cost

The Developer and Utility shall each be responsible for the compensation and expenses, if any, of its delegates to the Operating Committee.

20.8 Schedule 8 – Minimum Functional Specifications

In addition to the National Grid Code, the Minimum Functional Specifications shall include, inter alia, the following:

20.8.1 Expected Gross and Net Plant output profile with details of expected variations on a daily, weekly, monthly, and annual basis as appropriate;

20.8.2 Power Plant estimate monthly capacity power factor.

20.8.3 Expected Monthly Plant Availability.

20.8.4 Monthly Dependable Capacity

- (a) Maximum capacity;
- (b) Expected capacity variations based on plant availability;
- (c) Expected Forced Outage Rate; and
- (d) Expected capacity constraints due to other factors.

20.8.5 Monthly Plant Availability

- (a) Expected Scheduled Maintenance Requirements; and
- (b) Expected Forced Outage Rates.

20.8.6 Monthly Expected Operating Efficiency

- (a) Generator Unit Gross and Net Heat Rates. Net Heat Rate shall be referenced at generator bus voltage level.
- 20.8.7 Power Plant Net Heat Rate, referenced at 69 kV voltage at the Point of Interconnection.
- 20.8.8 Generator unit 13.8/69 kV Step-up Unit (GSU) transformer No-Load and Load Losses in kW.
- (a) No-Load Loss shall be referenced at 69 kV, 60 Hz; and
 - (b) Load Losses shall be referenced at the Dependable Capacity of the Plant
 - (c) In the event are more than one (1) GSU, Load Loss shall be defined referencing the expected loading of each transformer with dispatch at the Plant's Dependable Capacity - 25 MW per Lot.