

## **ADDENDUM FOR ENERGY STORAGE CAPACITY**

This Addendum for Energy Storage Capacity (this “Addendum”) is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ (“Addendum Effective Date”) by and between Alabama Power Company (“Alabama Power”) and [\_\_\_\_\_] (“QF”).

### **WITNESSETH:**

**WHEREAS**, in accordance with Alabama Power’s Rate CPE (Contract for Purchased Energy) (“Rate CPE”), the Parties have either previously or concurrently herewith entered into that certain Contract for the Purchase of Energy from a Qualifying Facility dated [\_\_\_\_\_] (“CPE Agreement”) for the sale of electric energy to Alabama Power from an electric generation facility;

**WHEREAS**, [QF intends to construct, own, operate and maintain an energy storage facility in \_\_\_\_\_ County, Alabama] [OR] [QF presently owns and operates an energy storage facility in \_\_\_\_\_ County, Alabama];

**WHEREAS**, QF will certify, or has certified, and will operate such electric generation facility and energy storage facility as a Qualifying Facility pursuant to the provisions of the Public Utility Regulatory Policies Act of 1978 (“PURPA”); and

**WHEREAS**, in addition to the sale of energy under the CPE Agreement, QF desires to sell to Alabama Power the electric capacity and provide to Alabama Power associated energy from such energy storage facility pursuant to the terms and conditions set forth in this Addendum.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, Alabama Power and QF, each intending to be legally bound, hereby agree as follows:

### **ARTICLE 1**

#### **DEFINITIONS**

All capitalized terms in this Addendum shall have the respective meanings assigned to such terms in the CPE Agreement. In addition, unless otherwise defined herein, the following capitalized terms shall have the respective meanings set forth below.

“**Actual Round Trip Efficiency**” or “**Actual RTE**” means, at a given time, the rate of efficiency comparing an amount of Charging Energy injected into the BESS and the amount of resulting Discharging Energy that can be discharged by the BESS, as determined under the most recent test for Actual RTE conducted pursuant to **Attachment 3** (which shall be stated as a percentage of Discharging Energy to Charging Energy); provided that, for purposes of determining the Actual RTE with respect to Grid Charging Energy and Grid Discharging Energy (including for purposes of Section 6.3 and whether the Actual RTE meets the Guaranteed RTE), the amount of Grid Charging Energy and the amount of Grid Discharging Energy shall be measured at the high voltage side of the Interconnection Point.

“**Addendum**” means this Addendum for Energy Storage Capacity.

“**AGC**” means, generally, the equipment and capability of an energy storage facility to automatically adjust the output energy quantity within the applicable balancing authority with the purpose of interchange balancing and means, specifically, the BESS’s capability of accepting a set-point electronically and the automatic adjustment and regulation of the BESS’s energy output to meet the set point.

“**AGC Setpoint**” has the meaning set forth in **Attachment 6**.

“**Battery Energy Storage System**” or “**BESS**” means the [ ] MW/[ ] MWh battery energy storage system with [ ]-Hour duration, to be located and constructed at the Site and further described herein, including in **Attachment 10**, together with all other equipment, devices and associated appurtenances owned, controlled, operated and managed by QF in connection with, or to facilitate, the storage, transmission, delivery or furnishing by QF to Alabama Power of the electric energy stored in the BESS.

“**BESS Capacity**” means the total capacity of the BESS (expressed in MW, Hour duration and MWh), as measured or determined at the Interconnection Point and as determined by the most recent BESS Capacity test conducted pursuant to **Attachment 3**.

“**BESS COD Criteria**” means the fulfillment, to Alabama Power’s reasonable satisfaction, of all of the following criteria:

(i) QF shall have (a) demonstrated that the BESS:

(1) is installed and physically completed with a BESS Capacity of no less than the BESS Contract Capacity, as shown by performance tests in accordance with **Attachment 3**,

(2) is capable of receiving Energy Facility Charging Energy and Grid Charging Energy,

(3) is capable of delivering Discharging Energy to the Interconnection Point, and

(4) satisfies the performance guarantees set forth in **Attachment 2**, as shown by performance tests in accordance with **Attachment 3**; and

(b) provided Alabama Power a certificate from a responsible officer of QF certifying the foregoing (a) (1) through (4) and that the BESS has been designed, engineered, constructed and tested in accordance with Prudent Industry Practices and the terms of this Addendum, including **Attachment 3**;

(ii) QF shall have demonstrated that the BESS is capable of reliably storing electric energy and reliably delivering such electric energy to the Electric System through

the Interconnection Point, which demonstration shall include the delivery to Alabama Power of data from the metering equipment installed by Alabama Power that evidences the delivery of electrical energy from the BESS to the Interconnection Point;

(iii) the BESS has been interconnected to the Electric System pursuant to the Interconnection Agreement, the Interconnection Agreement is in full force and effect, and QF and the BESS are in compliance with the Interconnection Agreement;

(iv) QF shall have demonstrated that it has obtained all authorizations necessary to deliver energy from the BESS under this Addendum to the Interconnection Point and the Electric System;

(v) QF shall have provided Alabama Power a certificate from an independent, professional engineer registered in the State of Alabama, reasonably acceptable to Alabama Power, stating that the BESS has been designed, engineered, constructed and tested in accordance with Prudent Industry Practices and the terms of this Addendum, including **Attachment 3**;

(vi) QF shall have delivered to Alabama Power a certificate from a responsible officer of QF certifying that QF has obtained and is in compliance with all Consents;

(vii) the BESS's AGC system, as approved by Alabama Power under **Attachment 6**, is completely installed and fully operational and is connected to Alabama Power's AGC remote terminal unit (RTU), and QF has demonstrated to Alabama Power that the BESS is capable of responding to and following Alabama Power's AGC Setpoint signals and that the BESS's AGC system otherwise satisfies Section 5.8 and **Attachments 6, 7 and 8**;

(viii) QF shall have (a) demonstrated that: (1) the construction and installation of all equipment and facilities comprising the Energy Facility (as opposed to only a portion thereof), representing a total completed and installed electric generation capacity (as measured at the Interconnection Point) equal to (and not greater than) [\_\_\_\_\_] MWac, are complete; (2) the Energy Facility (as so completed) is capable of producing electric energy and delivering such electric energy to the BESS and to the Electric System through the Interconnection Point, (3) the Energy Facility (as so completed) is sized, designed and configured so that it will be the primary source of Charging Energy for the BESS, and (4) the Initial Delivery Criteria have been satisfied under the CPE Agreement; and (b) provided Alabama Power a certificate from a responsible officer of QF certifying that the Energy Facility has been designed, engineered, constructed and tested in accordance with Prudent Industry Practices and the terms of this Addendum and the CPE Agreement, including **Attachment 3**, as applicable; and

(ix) QF shall have delivered to Alabama Power a certificate from a responsible officer of QF certifying that QF is in compliance with all of the provisions of this Addendum and the CPE Agreement as of the Day that all of the foregoing criteria in (i) through (viii) are satisfied.

“**BESS COD Date**” means the date on which all of the BESS COD Criteria have been fully satisfied.

“**BESS Contract Capacity**” means the guaranteed [ ] MW that the BESS must be capable of continuously discharging (as measured or determined at the Interconnection Point) over the BESS Discharge Duration Period as set forth in **Attachment 2**.

“**BESS Contract Year**” means any one of a succession of three hundred sixty-five (365) Day periods (or a three hundred sixty-six (366) Day period when there is a leap year), the first of which shall begin on the BESS Service Commencement Date and end on the first anniversary of the Day prior to the BESS Service Commencement Date. For example, if the BESS Service Commencement Date occurs on July 1, 2026, (i) the first (1<sup>st</sup>) BESS Contract Year shall commence on July 1, 2026 and end at the end of the Day on June 30, 2027, and (ii) the second (2<sup>nd</sup>) BESS Contract Year shall commence on July 1, 2027 and end at the end of the Day on June 30, 2028.

“**BESS Discharge Duration Period**” means the guaranteed number of Hours that the BESS must be capable of continuously discharging energy to the Interconnection Point at the BESS Contract Capacity, as set forth in **Attachment 2**.

“**BESS Service Commencement Date**” means the later of: (i) [ ]  
*[Note: insert a date agreed to by Alabama Power and QF]*; or (ii) the Day immediately after the Day on which all of the BESS COD Criteria have been achieved.

“**BESS Service Term**” means the period commencing on the BESS Service Commencement Date through the end of the [ ] BESS Contract Year.

“**Cash Security**” means cash security, free and clear of any adverse lien or interest, provided pursuant to a pledge agreement and a control agreement, each in form and substance acceptable to Alabama Power.

“**Charging Energy**” means any energy used to charge the BESS, including Energy Facility Charging Energy and Grid Charging Energy.

“**CPE Agreement**” has the meaning set forth in the Recitals to this Addendum.

“**Critical Milestone**” means each of the “Critical Milestones” described in **Attachment 9**, including the requirements and conditions for achieving such Critical Milestones as set forth herein and in **Attachment 9**.

“**Cycle**” means the equivalent of bringing the BESS from a zero percent (0%) state of charge to Full Charge and discharging the BESS from Full Charge to a zero percent (0%) state of charge. By way of example, if the BESS is at half of Full Charge, and is then brought to Full Charge, and is subsequently discharged to half of Full Charge, one half (1/2) Cycle shall have occurred. For purposes of determining the portion of a Cycle that has occurred on a given Day, the amount of the applicable BESS discharge during such Day will be used.

**“Discharging Energy”** means energy discharged from the BESS in accordance with Alabama Power’s direction pursuant to **Attachment 4** and the Operating Procedures, including Energy Facility Discharging Energy and Grid Discharging Energy.

**“Electrical Losses”** means all applicable electrical losses associated with the delivery of energy from one given point to another, including, for example, all electrical losses measured over a point-to-point distance, whether they occur on the Facility’s wires or lines, distribution lines, transmission lines, or in any inline equipment such as transformers, and anything else that reduces energy, such as transformation and inversion.

**“Energy Facility”** means the solar or other generation facility referenced in the CPE Agreement and which is appropriately sized, designed and configured so that it will be the primary source of Charging Energy for the BESS.

**“Energy Facility Charging Energy”** means all energy produced by the Energy Facility (excluding Electrical Losses) delivered to the BESS.

**“Energy Facility Discharging Energy”** means Energy Facility Charging Energy delivered by QF from the BESS to the Interconnection Point.

**“Force Majeure Event”** means any occurrence, nonoccurrence or set of circumstances occurring after the Addendum Effective Date that (i) prevents QF from performing its obligations under this Addendum, (ii) is beyond the reasonable control of QF, (iii) is not caused by QF’s negligence, lack of due diligence, or failure to follow Prudent Industry Practices, and (iv) could not have been avoided by the exercise of reasonable diligence and care; provided that the term Force Majeure Event shall not include: (a) a change in Legal Requirements; (b) the inability to meet a Legal Requirement or Consent; (c) the inability to obtain or a delay in obtaining any Consent; (d) a Site-specific strike, walkout, lockout or other labor dispute; (e) equipment failure; (f) changes in market conditions that affect the cost or availability of equipment, materials, supplies or services; (g) failures of contractors, suppliers or vendors; (h) climatic temperature and humidity conditions; (i) failure or inability to obtain or retain sufficient funds, credit or financing for any reason, including from a Governmental Authority; or (j) loss of or inability to obtain or retain tax credits or similar incentives for any portion of the Facility.

**“Full Charge”** means a state of charge of the BESS (in MWh) equal to the BESS Contract Capacity multiplied by the BESS Discharge Duration Period (i.e., the guaranteed BESS Operating Energy as defined in **Attachment 2**).

**“Grid Charging Energy”** means energy provided by Alabama Power through the Interconnection Point for the sole purpose of charging the BESS.

**“Grid Charging Energy Quantity”** has the meaning set forth in Section 6.3.2.

**“Grid Discharging Energy”** means Grid Charging Energy delivered by QF from the BESS to the Interconnection Point.

“**Guaranteed RTE**” has the meaning set forth in **Attachment 2**.

“**Letter of Credit**” means a letter of credit in a form acceptable to Alabama Power, which is in full force and effect and is not within ninety (90) Days of terminating or expiring, issued by a major U.S. commercial bank or a U.S. branch office of a major foreign bank who has and maintains assets of at least \$25 billion and at all times having a senior unsecured rating of at least “A2” (or future equivalent) by Moody’s and at least “A” (or future equivalent) by S&P.

“**Maximum Delivered Capacity Amount**” means the maximum amount of energy that QF is permitted to deliver to the Interconnection Point at any given time between the combination of energy generated by the Energy Facility and energy discharged from the BESS, which amount shall be equal to the lesser of (a) the limit set forth in the Interconnection Agreement, or (b) eighty (80) MW.

“**Monthly Performance Metric Reduction**” has the meaning set forth in **Attachment 1**.

“**Monthly Performance Storage Metric**” has the meaning set forth in **Attachment 1**.

“**Non-Peak Months**” means those Months designated by Alabama Power from time to time as “Non-Peak Months” for purposes of this Addendum, by notice provided to QF.

“**Operating Procedures**” has the meaning set forth in Section 5.1.

“**Performance Security**” has the meaning set forth in Section 11.1.

“**Performance Security Amount**” means \$[\_\_\_\_\_].

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

“**Required BESS COD Date**” means the Required Milestone Date for the fulfillment of all of the BESS COD Criteria, as set forth in **Attachment 9**.

“**Required Milestone Date**” means, for each Critical Milestone, the date set forth in **Attachment 9** as the “Required Milestone Date” for such Critical Milestone.

“**Scheduled Outage**” has the meaning set forth in Section 5.5.

## **ARTICLE 2**

### **INTEGRATION WITH CPE AGREEMENT**

2.1 Integration. This Addendum is incorporated by reference into the CPE Agreement, and all of the terms and conditions of the CPE Agreement shall continue to apply and are incorporated by reference into this Addendum. Upon execution of this Addendum, the CPE Agreement and this Addendum (including all appendices, attachments and exhibits thereto) shall constitute a single integrated contract and agreement between the Parties. In the event of a conflict

between the terms of the CPE Agreement and this Addendum, the terms of this Addendum shall govern to the extent of the conflict.

2.2 Facility. For all purposes of the CPE Agreement and this Addendum, the term “Facility” shall mean the Energy Facility and the BESS as defined in this Addendum.

### **ARTICLE 3**

#### **CONSENTS; BESS DEVELOPMENT AND CONSTRUCTION**

3.1 Consents. QF shall obtain and maintain, at its sole cost and expense, any and all Consents necessary for the siting, construction, ownership and operation of the BESS.

3.2 Development and Construction of the BESS; Facility Restrictions.

3.2.1 QF shall design, engineer, construct, test and commission the BESS in accordance with Prudent Industry Practices and applicable Legal Requirements.

3.2.2 No later than the end of each Month prior to the BESS Service Term, QF shall deliver a written report to Alabama Power describing the progress of development and construction of the BESS, including the estimated date that mechanical completion will occur and the estimated date that the BESS will initially synchronize to the Electric System.

3.3 Inspections. Upon reasonable prior advance notice to QF, Alabama Power or its Representatives shall be entitled to inspect the Site and the construction, maintenance, operation and testing of the BESS. QF shall cooperate in such inspections as may be reasonably required by Alabama Power, provided that: (i) such inspections shall not materially interfere with the construction, maintenance, testing or operations of the BESS, and (ii) Alabama Power complies with QF’s reasonable policies and procedures applicable to the BESS and the Site, including health and safety policies and procedures. Any such review and inspection, should it occur, shall not be construed as any endorsement by Alabama Power of the design or construction of the BESS or as any warranty by Alabama Power of the safety, durability or reliability thereof.

3.4 Achievement of Critical Milestones.

3.4.1 QF shall use all diligent efforts to achieve each Critical Milestone by the applicable Required Milestone Date. QF shall provide Alabama Power with a description of progress in achieving each Critical Milestone with the Monthly reports provided pursuant to Section 3.2.2. After each Critical Milestone is achieved, QF shall thereafter cause the requirements and conditions for achieving such Critical Milestone to continue to be satisfied; provided that if such requirements and conditions are no longer satisfied, QF shall provide notice of the same to Alabama Power within ten (10) Business Days.

3.4.2 As a condition to achieving each Critical Milestone, QF shall provide Alabama Power with evidence reasonably demonstrating the achievement of the Critical

Milestone, which shall be the information and documentation identified in **Attachment 9** for such Critical Milestone (or other evidence reasonably satisfactory to Alabama Power).

3.4.3 If for any reason QF does not achieve a Critical Milestone on or before the applicable Required Milestone Date, or if the requirements and conditions for achieving the Critical Milestone are no longer satisfied at any time after the applicable Required Milestone Date, Alabama Power shall be entitled to terminate this Addendum at any time thereafter by providing notice to QF; provided, however, QF may cure a failure to achieve a Critical Milestone by the Required Milestone Date (other than the failure to achieve the BESS COD Date by the Required BESS COD Date, which shall be governed by Section 3.7), subject to the following:

(a) Within ten (10) Business Days after the applicable Required Milestone Date, QF shall (i) achieve the Critical Milestone or (ii) submit to Alabama Power (A) a written description of the reason for the failure to achieve the Critical Milestone, (B) the date QF expects it will achieve the missed Critical Milestone, which shall be no more than sixty (60) Days after the original Required Milestone Date (“Critical Milestone Extension Date”), and (C) a written recovery plan for achieving the missed Critical Milestone and achieving the remaining Critical Milestones by the applicable Required Milestone Dates (the “Recovery Plan”). The Recovery Plan shall also include an updated Facility development and construction schedule with dates for each remaining Critical Milestone, which updated schedule shall be subject to acceptance by Alabama Power, in its sole and absolute discretion; provided, however, in no event shall the Required Milestone Date for any other Critical Milestones be extended under such Recovery Plan.

(b) QF shall commence to undertake the measures contemplated by the Recovery Plan within five (5) Days after submitting such Recovery Plan to Alabama Power.

(c) QF shall be solely responsible for any costs or expenses incurred by QF as a result of developing and implementing the Recovery Plan.

(d) If QF fails in any material respect, as reasonably determined by Alabama Power, to: (i) meet the requirements of the Recovery Plan; (ii) demonstrate that the BESS COD Date will be achieved by the Required BESS COD Date pursuant to the Recovery Plan; or (iii) achieve completion of the missed Critical Milestone by the Critical Milestone Extension Date, such failure shall constitute a failure to meet a Critical Milestone by the applicable Required Milestone Date under this Section 3.4 and Alabama Power shall have the right to terminate this Addendum under this Section 3.4.



Nothing in this Section 3.4.3 shall be construed to: (x) relieve QF of its obligations under this Addendum or the CPE Agreement; (y) modify the Required Milestone Dates for achieving the remaining Critical Milestones (except for the missed Critical Milestone that QF is attempting to cure under this Section 3.4.3); or (z) relieve QF of its obligation to achieve the BESS COD Date by the Required BESS COD Date. QF's failure to achieve a Critical Milestone by the applicable Required Milestone Date shall not be excused, and Alabama Power's right to terminate this Addendum pursuant to this Section 3.4.3 shall not be limited, as a result of any Force Majeure Event.

### 3.5 BESS COD Date.

3.5.1 In the event that the BESS COD Date is not achieved by the Required BESS COD Date, QF shall pay Alabama Power an amount of liquidated damages equal to [\_\_\_\_\_] dollars (\$[\_\_\_\_\_] ) for each Day after the Required BESS COD Date until the BESS COD Date is achieved. Such liquidated damages shall be invoiced to QF by Alabama Power and shall be paid by QF to Alabama Power within three (3) Business Days after QF receives such invoice for the same. QF shall pay such liquidated damages to Alabama Power for each Day until the earlier of: (i) the BESS COD Date; (ii) the Day that QF terminates this Addendum pursuant to Section 3.5.2; or (iii) the Day that Alabama Power terminates this Addendum pursuant to Section 3.5.3.

3.5.2 After the Required BESS COD Date has occurred, if the BESS COD Date will not thereafter be achieved, QF shall be entitled to terminate this Addendum by providing notice to Alabama Power certifying that the BESS COD Date will not be achieved; provided that QF shall not be entitled to provide such notice prior to the Required BESS COD Date.

3.5.3 If the BESS COD Date is not achieved within one hundred eighty (180) Days after the Required BESS COD Date, then Alabama Power shall be entitled to terminate this Addendum at any time thereafter by providing notice to QF; provided, however, that Alabama Power shall not be entitled to provide such notice after the BESS COD Date is achieved.

### 3.6 Termination.

3.6.1 If Alabama Power provides notice to QF terminating this Agreement under Section 3.4 or Section 3.5.3, or if QF notifies Alabama Power under Section 3.5.2 that the BESS COD Date will not be achieved, then this Addendum shall immediately terminate and QF shall, within five (5) Business Days, pay to Alabama Power liquidated damages in an amount equal to the difference (if positive) of (a) an amount equal to the Performance Security Amount minus (b) any liquidated damages paid by QF to Alabama Power under Section 3.5.1 (provided that if the foregoing difference of (a) and (b) is negative, such liquidated damages shall be equal to zero (0)). Upon such termination, neither Party shall have any further obligation under this Addendum, except for obligations and liabilities that survive termination as provided in this Addendum or which accrued prior to or at

termination (including QF's obligation to pay liquidated damages under this Section 3.6.1 or under Section 3.5.1).

3.6.2 The Parties acknowledge and agree that in the event a Critical Milestone is not achieved by the applicable Required Milestone Date, if the requirements and conditions for achieving a Critical Milestone are no longer satisfied after the applicable Required Milestone Date, or if this Addendum terminates pursuant to Section 3.4, Section 3.5 or Section 3.6, all or a portion of the amount of the damages arising therefrom are not susceptible to an accurate determination. The Parties further acknowledge and agree that the liquidated damages set forth in Section 3.5 and Section 3.6 are not intended as a penalty and represent a fair and reasonable approximation of all or a portion of the damages Alabama Power may incur in each particular case.

3.7 Extension of Required BESS COD Date. QF shall be entitled to extend the Required BESS COD Date on a Day-for Day basis up to the period of any delay in achieving the BESS COD Date to the extent directly and proximately caused by a Force Majeure Event that cannot be overcome by QF by using commercially reasonable efforts, including by using commercially reasonable efforts to revise or rearrange QF's construction schedule; provided, for the avoidance of doubt, no other Critical Milestone shall be subject to extension due to a Force Majeure Event. In the event QF extends the Required BESS COD Date pursuant to this Section 3.7 by more than one hundred eighty (180) Days, Alabama Power shall be entitled to terminate this Addendum at any time thereafter upon notice to QF; provided, however, that Alabama Power shall not be entitled to provide such notice after the BESS COD Date is achieved. Upon any termination of this Addendum by Alabama Power under this Section 3.7, neither Party shall have any further obligation under this Addendum, except for obligations and liabilities that survive termination as provided in this Addendum or which accrued prior to termination.

## **ARTICLE 4**

### **BESS SERVICE COMMENCEMENT DATE; TERM AND TERMINATION; APSC APPROVAL**

#### 4.1 BESS COD Date.

4.1.1 QF shall notify Alabama Power of the estimated BESS COD Date at least one hundred eighty (180) Days prior to such date or such shorter period as the Parties may agree.

4.1.2 In the event that QF believes that all of the BESS COD Criteria have been achieved, QF shall provide Alabama Power notice thereof; provided, however, QF shall provide Alabama Power with at least fifteen (15) Days prior notice of the actual BESS COD Date (or such shorter period as the Parties may agree).

#### 4.2 Term.

4.2.1 This Addendum shall be effective as of the Addendum Effective Date. Subject to early termination of this Addendum, the “Term” of this Addendum shall begin on the Addendum Effective Date and shall continue until the end of the BESS Service Term.

4.2.2 By entering into this Addendum, notwithstanding anything to the contrary in the CPE Agreement and without further action of the Parties, the “Initial Period” as defined in the CPE Agreement and for all purposes of the CPE Agreement, is hereby modified to mean the period of time from the Initial Delivery Date (as defined in the CPE Agreement) through the later of: (i) date on which a revision to Rate CPE is made effective by the APSC; or (ii) the end of the BESS Service Term.

4.3 Survival. All provisions of this Addendum that expressly or by implication come into or continue in force and effect following the expiration or termination of this Addendum shall remain in effect and be enforceable following such expiration or termination, including all provisions of this Addendum which must survive in order to give force and effect to the rights and obligations of the Parties under this Addendum.

4.4 APSC Approval. This Addendum is subject to review and approval by the APSC in accordance with Rate CPE and any modifications that may be ordered by the APSC at the time of any such approval.

## ARTICLE 5

### OPERATION, PERFORMANCE AND MAINTENANCE OF THE BESS

5.1 Operating Procedures. QF and Alabama Power shall jointly develop written operating procedures with respect to the operation of the BESS (“Operating Procedures”) at least sixty (60) Days prior to the anticipated BESS COD Date. Such Operating Procedures should address: (i) deliveries of energy during start-up and testing of the Facility; (ii) the method of day-to-day communications; (iii) clearance and switching practices; (iv) Alabama Power having real time access to BESS monitoring systems; (v) BESS operations log; (vi) reactive power output; (vii) technical limitations of BESS operation; (viii) coordination of maintenance scheduling; (ix) designation of Confidential Information, (x) logging and tracking of BESS Scheduled Outage Hours; (xi) procedures for charging and discharging the BESS, and/or (xii) such other matters as the Representatives of QF and Alabama Power agree are appropriate. In the event of inconsistency or conflict between the Operating Procedures and specific terms of this Addendum, the specific terms of this Addendum shall take precedence.

5.2 BESS Operating Requirements. The BESS shall be operated, maintained and dispatched in accordance with the requirements set forth in **Attachment 4** and the other provisions of this Addendum. QF will ensure that it supplies all needed data and control system access or interconnections to allow Alabama Power to direct, through the use of a 6-second AGC signal, that the energy output of the Energy Facility be directed, in whole or in part: (i) to the Interconnection Point, (ii) into the BESS; or (iii) out of the BESS to the Interconnection Point. The

same options will be available for Alabama Power's use of Grid Charging Energy and Grid Discharging Energy. Alabama Power shall be entitled to determine the effectiveness of the BESS use by tracking: (a) the daily minimum energy storage capability as compared to the BESS storage capability and BESS Contract Capacity; and (b) the daily minimum charge/discharge rate as compared to the BESS maximum rate of charge/discharge.

5.3 Access to the Facility. Upon reasonable notice, Alabama Power's Representatives shall have access to the Facility and the Site in order to: (i) inspect BESS equipment; (ii) inspect, maintain, and test meters and other Alabama Power equipment, (iii) monitor or measure energy generated by the Energy Facility, (iv) monitor or measure energy stored and discharged by the BESS, (v) inspect the Facility, and (vi) take such other action as may be reasonably necessary to exercise Alabama Power's rights under this Addendum. Alabama Power shall comply with the reasonable rules and procedures of QF when accessing the Facility or the Site under this Section 5.3.

5.4 Availability of Records. QF shall keep complete and accurate records and all other data with respect to its performance under this Addendum in accordance with the following guidelines:

5.4.1 All such records shall be maintained for a minimum of seven (7) years after the creation of such record or data and for any additional period of time required by any Legal Requirement or Governmental Authority. In the event QF intends to dispose of or destroy any such records after such seven (7) year period, QF shall provide Alabama Power with thirty (30) Days prior written notice.

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

5.5 Scheduled Outages. QF shall submit to Alabama Power a schedule of planned Energy Facility and BESS outages during which maintenance will be performed ("Scheduled Outages") as follows: (i) by no later than ninety (90) Days prior to the BESS Service Commencement Date, QF shall submit such schedule of Scheduled Outages for the period of the calendar year after the BESS Service Commencement Date occurs, and (ii) by no later than each September 1, QF shall submit such schedule of Scheduled Outages for the following calendar year for the remainder of the BESS Service Term; provided, however, that (a) QF shall only conduct Scheduled Outages of the Facility during Non-Peak Months; (b) the aggregate total period of such Scheduled Outages of the Energy Facility shall be limited to fourteen (14) Days for any given Contract Year; and (c) the aggregate total period of such Scheduled Outages of the BESS shall be limited to fourteen (14) Days for any given BESS Contract Year. Alabama Power shall have thirty (30) Days to review the proposed schedule of Scheduled Outages and may approve or reject such schedule in whole or in part, and may suggest alternative dates for Scheduled Outages. Scheduled Outages are subject to the prior approval of Alabama Power, which approval shall not be unreasonably conditioned, withheld or delayed. QF shall resubmit revised schedules for Scheduled Outages to Alabama Power within thirty (30) Days after Alabama Power's disapproval of a previous schedule, and Alabama Power and QF agree to use commercially reasonable efforts

to promptly develop schedules for Scheduled Outages that are mutually acceptable to the Parties. In addition, in the event that Alabama Power, in good faith, requests QF to postpone or revise the period of a Scheduled Outage due to a reasonably anticipated need for the energy from the Facility during such period, QF shall cooperate with Alabama Power to postpone or revise the period of the Scheduled Outage to the extent consistent with Prudent Industry Practices and provided that there would be no adverse effect caused to the Facility.

5.6 Station Service. The Parties may agree in the Operating Procedures for QF to utilize energy from the Facility for the purpose of Station Service, provided that the Parties shall also agree upon a method in the Operating Procedures to ensure that Alabama Power does not pay for any energy that may be utilized for Station Service. In no event shall energy generated by the Energy Facility used to provide Station Service constitute Charging Energy (including for calculation of Actual RTE), and QF shall not otherwise be entitled to any compensation for such energy. In addition, if energy stored in the BESS is used for Station Service, such energy may only be obtained from BESS capability that is in excess of or separate from the BESS Contract Capacity. Seller shall not utilize energy stored in the BESS for Station Service to any extent that such use reduces or would reduce the amount of stored energy, including Energy Facility Charging Energy and Grid Charging Energy, that Alabama Power has directed to be stored in the BESS and available for discharge in accordance with Alabama Power's AGC signals. In no event shall Grid Charging Energy supplied to the BESS be used for Station Service purposes.

#### 5.7 Unplanned Outages.

5.7.1 All outages or derates of the BESS that are not Scheduled Outages approved by Alabama Power shall be referred to as "Unplanned Outages". In addition to Scheduled Outages, QF shall use commercially reasonable efforts to promptly notify Alabama Power of any Unplanned Outages, including any event or condition that will result in any portion of the BESS not being able to store or discharge energy, including forced outages of the Facility and Force Majeure Events affecting the Facility. Such notices shall contain information describing such event or condition, the beginning date and time of such event or condition, the expected end date and time of such event or condition, and any other information reasonably requested by Alabama Power. With respect to any such event or condition, QF shall provide Alabama Power with such notice by any reasonable means required by Alabama Power, including by computer application, telephone, or electronic mail.

5.7.2 For any Unplanned Outages of the BESS, such Unplanned Outages will impact the calculation of the Monthly Performance Storage Metric and/or the Monthly Performance Metric Reduction, which may reduce the Monthly Capacity Payment under **Attachment 1**. Means by which Alabama Power may determine that an Unplanned Outage has occurred may include: (i) notification of the Unplanned Outage by QF to Alabama Power, (ii) determination by Alabama Power that the BESS is not responding to AGC signals or is responding in a way that Alabama Power determines indicates a reduction in capability, and (iii) determination by Alabama Power that the BESS is telemetering, through AGC signals, a capability that is lower than the guaranteed values set forth in **Attachment 2**.

5.8 Automatic Generation Control. QF shall comply with the provisions of **Attachments 6, 7 and 8** with respect to AGC.

5.9 Metering.

5.9.1 QF shall, at its own cost, locate, construct, install, own, operate and maintain meters and such other facilities, equipment and devices as QF deems necessary or appropriate in order to determine the applicable amounts of electric energy to be measured under this Addendum prior to the Interconnection Point (including amounts of electric energy delivered to the BESS and discharged from the BESS), all in accordance with the Interconnection Agreement and Prudent Industry Practices. Alabama Power may, at its own cost, install additional meters or other such facilities, equipment or devices prior to the Interconnection Point as Alabama Power deems necessary or appropriate to monitor the measurements of QF's meters installed pursuant to this Section 5.9.1.

5.9.2 The Parties shall agree upon the design of all meters installed pursuant to Section 5.9.1 and the CPE Agreement. The meters installed by Alabama Power pursuant to the CPE Agreement and QF pursuant to Section 5.9.1 shall be used for purposes of calculating Alabama Power's payment for deliveries of energy under this Addendum and the CPE Agreement and all testing and other requirements of this Addendum.

5.9.3 All meters and other such facilities, equipment and devices installed by Alabama Power shall be and remain the property of Alabama Power. All meters and other such facilities, equipment and devices installed by QF shall be and remain the property of QF.

5.9.4 QF shall inspect and test all meters installed by QF in order to measure the output of the Energy Facility and the BESS, and the energy delivered into the BESS, at such times as QF deems necessary or appropriate. Upon reasonable written request to QF, Alabama Power may request an inspection or testing of any such meters. Alabama Power shall be responsible for, and shall reimburse QF for, all reasonable costs and expenses incurred by or on behalf of QF in connection with such inspections or tests requested by Alabama Power unless such inspection or test reveals that such meters are inaccurate by more than one-half of one percent (0.5%) from the measurement made by the standard meter used in the test, in which event QF shall bear all costs of such testing. QF shall give reasonable written notice to Alabama Power of the time and place when any such meter is to be inspected or tested, and Alabama Power may have a representative present at such inspection.

## **ARTICLE 6**

### **SALE AND DELIVERY OF ENERGY AND BESS CAPACITY**

6.1 Sale and Purchase of Energy.

6.1.1 Commencing on the BESS Service Commencement Date and thereafter for the BESS Service Term, subject to the terms and conditions of this Addendum, QF shall sell and deliver to Alabama Power energy from the BESS at the Interconnection Point pursuant to and in accordance with Alabama Power's dispatch requests (including by AGC signals) under **Attachment 4**. Subject to Section 6.1.2 and Section 6.3.2, Alabama Power shall purchase and receive from QF, all energy delivered to the Interconnection Point from the BESS pursuant to Alabama Power's dispatch requests.

6.1.2 Alabama Power's payment obligation for energy delivered from the BESS to the Interconnection Point shall be determined pursuant to Section 8.1 of the CPE Agreement and Appendix A of the CPE Agreement. Notwithstanding the foregoing, (i) Alabama Power shall not be required to pay QF any amounts for energy produced by the Energy Facility that is delivered into the BESS (including under the CPE Agreement) unless and until such energy is delivered from the BESS to the Interconnection Point pursuant to Alabama Power's dispatch requests, and (ii) Alabama Power shall not be required to pay QF any amounts for Grid Charging Energy delivered from the BESS to the Interconnection Point.

## 6.2 Sale and Purchase of BESS Capacity.

6.2.1 During the BESS Service Term, subject to the terms and conditions of this Addendum, QF shall sell and provide to Alabama Power, and Alabama Power shall purchase and receive from QF, the BESS Capacity, up to the BESS Contract Capacity.

6.2.2 Alabama Power shall pay for the BESS Capacity through the payment of the Monthly Capacity Payment determined pursuant to **Attachment 1**.

6.2.3 Within a reasonable period of time after the end of each Month during the BESS Service Term, Alabama Power or its Affiliate shall include the amount of the Monthly Capacity Payment for such Month within the Monthly Statement provided under Section 8.1.1 of the CPE Agreement. The Monthly Capacity Payment shall be paid subject to the provisions of Article 8 of the CPE Agreement.

## 6.3 Grid Charging and Discharging Energy.

6.3.1 During the BESS Service Term, Alabama Power shall be entitled to charge the BESS utilizing Grid Charging Energy in accordance with this Addendum. QF shall deliver Grid Discharging Energy from the BESS as requested by Alabama Power under this Addendum. QF shall cooperate with Alabama Power as required in order to track the amount of Grid Charging Energy provided by Alabama Power and the amount of such Grid Charging Energy that is delivered by QF to Alabama Power in the form of Grid Discharging Energy.

6.3.2 With respect to a given quantity of Grid Charging Energy delivered by Alabama Power to charge the BESS ("Grid Charging Energy Quantity"), QF guarantees that it shall (as requested pursuant to the dispatch of Alabama Power under this Addendum) deliver Discharging Energy to Alabama Power in an amount no less than the product of:

(i) such Grid Charging Energy Quantity; multiplied by (ii) the greater of the Guaranteed RTE or the Actual RTE (such amount being referred to as the “Guaranteed Discharging Energy”). In the event that QF utilizes Energy Facility Discharging Energy to meet the foregoing guarantee, Alabama Power shall not be required to pay QF any amounts for such Energy Facility Discharging Energy, including under the CPE Agreement. In the event that QF does not deliver an amount of Discharging Energy as requested and dispatched by Alabama Power equal to the Guaranteed Discharging Energy, then QF shall pay to Alabama Power an amount equal to the Grid Discharging Energy Payment, which shall be equal to the product of: (a) the amount of Guaranteed Discharging Energy that QF fails to deliver; multiplied by (b) the Energy Cost, which shall be equal to the greater of the following:

- (1) Alabama Power’s actual cost of the applicable Grid Charging Energy Quantity that was delivered to the BESS; or
- (2) the System Incremental Cost (as defined in Section E of **Attachment 1**) for the Hour of the applicable non-delivery of Guaranteed Discharging Energy.

6.4 Reactive Power Support. During the BESS Service Term, the BESS and the Energy Facility must be capable of providing, and upon Alabama Power’s request QF will cause the BESS and the Energy Facility to provide, reactive power support to Alabama Power (*i.e.*, to produce and absorb reactive power) to meet Alabama Power’s voltage schedule requirements specified in Southern Companies’ Bulk Power Operations Procedure BPO-01 at all real power levels (pushing and pulling). QF is required to design the BESS and the Energy Facility to meet the reactive power criteria as specified in the Interconnection Agreement. QF shall bear all costs for any net real electrical power draws associated with providing any and all reactive power support described in this Section 6.4.

6.5 Exclusivity. From the Effective Date and throughout the Term, Alabama Power shall have exclusive rights to the entire capacity and energy of the BESS, and QF shall not sell, supply or otherwise provide electrical capacity or energy from the BESS to any other Person(s).

6.6 Electrical Products. The payments under this Addendum constitute full and complete compensation for all energy and capacity provided to Alabama Power from the BESS, as well as for Electrical Products that are inherently embedded in or connected with such energy and capacity. Alabama Power shall not be required to accept or pay for any Electrical Products, if any, produced by or related to the BESS, and QF shall not seek separate or additional compensation from Alabama Power for any such Electrical Products under this Addendum or any other agreement, tariff or rate schedule or filing with any Governmental Authority.

6.7 Point of Delivery; Title and Risk of Loss; Indemnity.

6.7.1 QF shall deliver energy from the BESS to Alabama Power at the Interconnection Point.

6.7.2 Title to energy from the BESS shall pass from QF to Alabama Power at the



Interconnection Point; provided, however, that title to Grid Charging Energy shall remain with Alabama Power at all times. QF covenants that it shall have good and marketable title to all energy delivered from the BESS to the Interconnection Point and that it has the right to, and will, sell and deliver such energy to Alabama Power free and clear of all liens and encumbrances.

6.7.3 Risk of loss of all energy from the Energy Facility and the BESS shall remain with QF prior to the Interconnection Point. QF shall have risk of loss of all Grid Charging Energy and all Discharging Energy on QF's side of the Interconnection Point.

6.7.4 Without limiting QF's obligations under Section 11.1 of the CPE Agreement, QF shall release, defend, indemnify and hold harmless Alabama Power and its Representatives, from and against any and all loss, damage, liability, claims (including claims and actions involving injury to or death of any person or damage to property, including the BESS and other property of QF), damages, penalties, demands, fines, forfeitures, suits, actions and causes of action and all costs and expenses incident thereto, including court costs, costs of defense, costs of investigation, settlements, judgments, and attorneys' fees, directly or indirectly resulting from the development, construction, use and operation of the BESS, including those which are alleged to be caused by, arise out of, or are in connection with: (i) QF's or its Representatives' acts and omissions in connection with the performance, or failure thereof, of obligations or representations and warranties under this Addendum; and (ii) the charging of the BESS with Charging Energy, the storage of Charging Energy, or the discharge of Charging Energy.

## **ARTICLE 7**

### **EVENTS OF DEFAULT; REMEDIES**

7.1 **Default by QF.** Any one or more of the following events shall constitute an Event of Default by QF:

- (i) QF fails to pay any amount payable by QF to Alabama Power under this Addendum when due, which failure has continued for thirty (30) Days after notice thereof has been given by Alabama Power to QF;
- (ii) QF fails to comply with the terms and conditions of Article 11;
- (iii) QF becomes insolvent, becomes subject to bankruptcy or receivership proceedings, or dissolves as a legal business entity;
- (iv) any representation or warranty of QF to Alabama Power under this Addendum is false or misleading in any material respect when made and QF fails to conform to said representation or warranty within sixty (60) Days after a demand by Alabama Power to do so;

- (v) the Interconnection Agreement is terminated due to an event of default of QF;
- (vi) the Monthly Storage Performance Metric (as calculated pursuant to Attachment 1): is less than: (i) seventy-five percent (75%) for each of three (3) consecutive Months, or (ii) seventy-five percent (75%) for any six (6) Months of any consecutive twelve (12) Month period;
- (vii) the Actual Round Trip Efficiency is less than [\_\_\_\_\_] percent ([\_\_\_\_\_]%), unless QF cures the condition that resulted in such deficiency and demonstrates pursuant to a subsequent test within thirty (30) Days that the Actual Round Trip Efficiency is greater than or equal to [\_\_\_\_\_] percent ([\_\_\_\_\_]%)
- (viii) the BESS is not capable of continuously generating at least [\_\_\_\_\_] MW over [\_\_\_\_\_] consecutive Hours;
- (ix) the BESS Capacity (as determined pursuant to performance tests conducted under **Attachment 3**) is less than fifty percent (50%) of the BESS Contract Capacity for a period of [\_\_\_\_\_] Days;
- (x) the occurrence of an event or circumstance described in **Attachment 8** as an Event of Default;
- (xi) the occurrence of an Event of Default of QF under Section 10.1 of the CPE Agreement; or
- (xii) QF fails to perform or comply with any other material term or condition of this Addendum and fails to conform to said term and condition within sixty (60) Days after a demand by Alabama Power to do so.

7.2 Default by Alabama Power. Any one or more of the following events shall constitute an Event of Default by Alabama Power:

- (i) Alabama Power fails to pay any amount payable by Alabama Power to QF under this Addendum when due, which failure has continued for thirty (30) Days after notice thereof has been given by QF to Alabama Power;
- (iii) Alabama Power becomes insolvent, becomes subject to bankruptcy or receivership proceedings, or dissolves as a legal business entity;
- (iv) any representation or warranty of Alabama Power to QF under this Addendum is false or misleading in any material respect when made and Alabama Power fails to conform to said representation or warranty within sixty (60) Days after a demand by QF to do so;
- (v) the occurrence of an Event of Default of Alabama Power under Section 10.2 of the CPE Agreement; or

- (ii) Alabama Power fails to perform or comply with any other material term or condition of this Addendum and fails to conform to said term or condition within sixty (60) Days after a demand by QF to do so.

### 7.3 Remedies for Events of Default.

7.3.1 If an Event of Default has occurred and is continuing with respect to a Party (“Defaulting Party”), the other Party (“Non-Defaulting Party”) shall have the right by notice to the Defaulting Party to take one or more of the following actions in its sole discretion: (i) terminate this Addendum; and/or (ii) pursue available remedies at law or equity, including specific performance of the Defaulting Party’s obligations under this Addendum.

7.3.2 If the Non-Defaulting Party provides notice terminating this Addendum under subpart (i) of Section 7.3.1, the Non-Defaulting Party shall designate a Business Day in such notice that is no more than sixty (60) Days after the date on which such notice is given, on which designated Business Day this Addendum shall terminate (such designated date being referred to as the “Early Termination Date”). As soon as practicable thereafter, the Non-Defaulting Party shall provide notice to the Defaulting Party of the Settlement Amount, including a written statement explaining in reasonable detail the calculation of such amount. As used in this Addendum, the “Settlement Amount” shall be equal to the sum of: (i) the Cover Damages of the Non-Defaulting Party as calculated pursuant to Section 7.3.3; plus (ii) all amounts owed by the Defaulting Party to the Non-Defaulting Party pursuant to this Addendum as of the Early Termination Date.

7.3.3 As used in this Addendum, “Cover Damages” means an amount that is equal to the Non-Defaulting Party’s Gains, Losses and Costs resulting from the termination of this Addendum netted into a single amount. If the Non-Defaulting Party’s aggregate Losses and Costs exceed its aggregate Gains, then the net positive amount shall equal the Cover Damages. If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs resulting from the termination of this Addendum, the Non-Defaulting Party may retain such excess and the Cover Damages shall be deemed to be equal to zero (0). Such Gains, Losses and Costs shall be determined in a commercially reasonable manner by comparing the costs under this Addendum of the capacity, energy and Electrical Products that would be available under this Addendum for the remainder of the BESS Service Term had this Addendum not been terminated to the market price of capacity and energy (subject to equivalent terms and conditions regarding dispatch, reliability and delivery) and products that are equivalent to the Electrical Products for the remaining BESS Service Term had this Addendum not been terminated. To ascertain such market price, the Non-Defaulting Party may consider, among other evidence, offers and proposals for the sale of capacity, energy and products that are equivalent to the Electrical Products (including offers and proposals received by the Non-Defaulting Party and/or its Affiliates in response to any request for proposals), all adjusted for the length of the remaining BESS Service Term (had this Addendum not been terminated) and differences in locational basis (including costs of transmission investments and transmission service), reliability, dispatch flexibility and any other considerations affecting value. The Non-Defaulting Party shall not be required to enter into any replacement transactions in order to determine the Cover

Damages. As used in this Section 7.3.3: (i) “Costs” means brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred by the Non-Defaulting Party either in terminating any agreement which it has entered into to fulfill its obligations hereunder or entering into new agreements which replace this Addendum, and reasonable attorneys’ fees, if any, incurred in connection with enforcing its rights under this Addendum; (ii) “Gains” means an amount equal to the economic benefit determined on a mark to market basis (exclusive of Costs), if any, resulting from the termination of this Addendum; and (iii) “Losses” means an amount equal to the economic loss determined on a mark to market basis (exclusive of Costs), if any, resulting from the termination of this Addendum; provided that the term Losses shall not include the lost value of any investment tax credit, production tax credit, or any other similar tax credit or benefit associated with the Facility.

7.3.4 The Defaulting Party shall pay to the Non-Defaulting Party the Settlement Amount as calculated by the Non-Defaulting Party within three (3) Business Days after receiving notice of the Settlement Amount from the Non-Defaulting Party. Notwithstanding any other provision of this Addendum, the Defaulting Party shall not be entitled to withhold any portion of the Settlement Amount calculated by the Non-Defaulting Party that is disputed by Defaulting Party. If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Settlement Amount, the Defaulting Party shall nevertheless pay the full amount of such Settlement Amount as required by this Section 7.3.4 and shall provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Upon the resolution of such dispute, any amounts owed by a Party as a result shall be paid within three (3) Business Days after the relevant settlement of the dispute or order from a Governmental Authority resolving the dispute.

7.3.5 This Addendum shall terminate on the Early Termination Date and upon such termination, neither Party shall have any further obligation under this Addendum, except for obligations and liabilities that survive termination as provided in this Addendum or which accrue prior to or at termination (including the Defaulting Party’s obligation to pay the Settlement Amount).

7.3.6 In no event shall a Non-Defaulting Party be required to pay a Defaulting Party a Settlement Amount.

7.3.7 The Parties acknowledge and agree that in the event that this Addendum terminates as a result of an Event of Default, the amount of such damages is not susceptible to an accurate determination. The Parties further acknowledge and agree that the amounts that a Defaulting Party is required to pay under this Section 7.3 are not intended as a penalty and represent a fair and reasonable approximation of the damages a Non-Defaulting Party may incur due to the termination of this Addendum.

## ARTICLE 8

### REPRESENTATIONS AND WARRANTIES

8.1 Execution. Each Party represents and warrants to the other Party as of the Addendum Effective Date that: (i) it has all the necessary corporate or [ ] authority (as applicable) and all legal power and authority and has been duly authorized by all necessary corporate or [ ] action (as applicable) to enable it to lawfully execute, deliver and perform under this Addendum and the CPE Agreement; and (ii) it is a valid legal entity duly organized and validly existing in good standing under the laws of the state of its formation and is, to the extent required, qualified to do business in the State of Alabama.

8.2 Binding Obligations. Each Party represents and warrants to the other Party that, as of the Addendum Effective Date, this Addendum is the valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws affecting enforcement generally, and by equitable principles regardless of whether such principles are considered in a proceeding at law or in equity.

8.3 Execution and Consummation. Each Party represents and warrants to the other Party that, as of the Addendum Effective Date, the execution and delivery of this Addendum, the consummation of the transactions contemplated under this Addendum, and the fulfillment of and compliance with the provisions of this Addendum do not and will not conflict with any of the terms, conditions or provisions of its organizational documents or any Legal Requirement applicable to it.

## ARTICLE 9

### REGULATORY AND COMPLIANCE

9.1 CPE Agreement Provisions. The provisions of Article 7 of the CPE Agreement are hereby incorporated into this Addendum, *mutatis mutandis*.

9.2 Cyber Security. During the Term, the Facility shall comply with the applicable requirements for Bulk Electric System generation facilities in North America set forth in the NERC reliability standards created pursuant to FERC Order 706 (Cyber Security Standards). With respect to any actual or suspected cyber security incident that compromises, disrupts, or constitutes an attempt to compromise or disrupt: (i) QF's cyber security or physical security at the Facility; (ii) the performance of QF's obligations regarding the operation of the Facility; or (c) products, software, or systems provided or to be provided under this Addendum (a "Cyber Security Incident"), QF shall report such Cyber Security Incident to Alabama Power within twenty-four (24) Hours after discovery.

## ARTICLE 10

### INSURANCE

#### 10.1 Insurance Required of QF.

10.1.1 During the Term, QF shall acquire and maintain at its sole cost and expense, the types and amounts of insurance coverage as are consistent with Prudent Industry Practices but in no event less than the types and amounts described in **Attachment 5** and this Article 10. All such insurance shall be written by a company or companies with a Best's rating of no less than "A minus, VII."

10.1.2 Alabama Power and its Representatives shall be designated as additional insureds as their interests may appear on the commercial general liability required under **Attachment 5** and any excess liability policies.

10.1.3 The required policies in **Attachment 5** shall be primary and shall not contribute to any insurance that may otherwise be maintained by, or on behalf of, Alabama Power and its Representatives.

10.1.4 To the extent allowed by applicable law, QF waives and must require its insurers to waive rights of subrogation against Alabama Power and its Representatives under the insurance policies and coverages required in **Attachment 5**.

10.1.5 Prior to the commencement of work on the Energy Facility or the BESS at the Site, QF shall provide Alabama Power with certificates of insurance evidencing the required coverage set forth above and in **Attachment 5**. QF shall provide a minimum of thirty (30) Days advance notice to Alabama Power of cancellation or material change in coverage. QF shall obtain the prior written consent of Alabama Power for, after providing Alabama Power advance copies of, any policy endorsements that could modify or restrict Alabama Power's rights as an additional insured or under the contractual liability provisions of the subject policies, provided that such approval shall not be unreasonably withheld, delayed or conditioned, for any policy endorsements that could modify or restrict Alabama Power's rights as an additional insured or under the contractual liability provisions of the subject policies. Failure by QF to cause the procurement of the insurance coverage or the delivery of certificates of insurance required by this Article 10 or **Attachment 5** shall not relieve QF of the insurance requirements set forth herein or therein or in any way relieve or limit QF's obligations and liabilities under any other provision of the CPE Agreement or this Addendum.

10.1.6 The provisions requiring QF to acquire and maintain insurance hereunder shall not be construed as a waiver, restriction, or limitation of any liability imposed on QF under the CPE Agreement or this Addendum, whether or not the same is covered by insurance. It is the intent of the Parties, however, that to the extent there is insurance coverage available to cover the legal and contractually assumed liability of QF, any

payments due as a result of such liability shall be made first from the proceeds of such policies.

## **ARTICLE 11**

### **PERFORMANCE SECURITY**

11.1 Performance Security Required. By no later than the Addendum Effective Date, QF shall provide to Alabama Power and maintain thereafter, performance security in favor of Alabama Power in the form of Cash Security or a Letter of Credit (“Performance Security”), in either case in an available undrawn amount equal to the Performance Security Amount.

11.2 Use of Performance Security. Alabama Power shall be entitled to draw and/or be paid upon the Performance Security: (i) following and during the continuance of a breach of this Addendum by QF, whether or not this Addendum has expired or otherwise been terminated; (ii) if such Performance Security is within ninety (90) Days of expiry, expiration or termination and such Performance Security (or substitute or replacement Performance Security) is still required under the terms of this Addendum and substitute or replacement Performance Security that satisfies the requirements of this Addendum as to form, issuer and amount has not been provided (in which case the amount of such draw shall be held and treated by Alabama Power as Cash Security); and/or (iii) otherwise in compliance with the terms of such Performance Security. In the event that Alabama Power draws upon and/or realizes payment from the Performance Security provided by QF under this Addendum, then within five (5) Business Days after such draw or payment, QF shall provide to Alabama Power an amendment to such Performance Security or additional Performance Security as necessary such that the total available undrawn amount of Performance Security provided to and held by Alabama Power hereunder continues to be equal to or greater than the Performance Security Amount.

11.3 Return of Performance Security. Alabama Power shall return the Performance Security to QF upon the later to occur of: (i) the expiration or termination of this Addendum; or (ii) the indefeasible and irrevocable payment and performance of all of QF’s obligations under this Addendum.

## **ARTICLE 12**

### **CHANGES IN CONTROL; RIGHT OF FIRST OFFER; ASSIGNMENT**

12.1 Changes in Control. QF agrees that, without the prior written consent of Alabama Power, there will be no: (i) assignment or transfer of any ownership interest of QF in the Facility or any portion thereof; or (ii) Change in Control with respect to QF. For purposes hereof, “Change in Control” means any transaction or series of transactions which, if consummated, would result in fifty percent (50%) or more of the ownership interests in QF being owned or controlled (directly or indirectly) by an ultimate parent entity(ies) that is different than QF’s ultimate parent entity prior to such transaction. For purposes hereof, QF’s ultimate parent entity is the Person who directly or indirectly controls fifty percent (50%) or more of the ownership interests in QF and who itself is not owned or controlled by any other entity (“Ultimate Parent”). The foregoing

requirements shall apply with respect to each separate proposed assignment or Change in Control during the Term.

12.2 Right of First Offer. Alabama Power shall have an exclusive right of first offer (“ROFO”) with respect to any Transfer of any QF Interests or any Facility Assets, as set forth in this Section 12.2.

12.2.1 For purposes of this Section 12.2, the following terms shall have the respective meanings set forth below:

(i) “Facility Assets” means the Energy Facility, the BESS and all other assets and property (whether real or otherwise) that are necessary or desirable to own, control and operate the Energy Facility or the BESS, including contracts and permits that are related to the Facility and the ownership and operation thereof (including the CPE Agreement and this Addendum).

(ii) “QF Interests” means the ownership interests in QF.

(iii) “Transfer” means to, directly or indirectly, transfer, sell, convey or exchange Facility Assets or QF Interests; provided, however, for purposes of this Section 12.2, a “Transfer” shall not include a transfer, sale or conveyance of Facility Assets or QF Interests to an Affiliate of QF but only if following such transaction more than fifty percent (50%) of the QF Interests and Facility Assets are owned and controlled (directly or indirectly) by the same Ultimate Parent of QF prior to the transfer, sale or conveyance.

12.2.2 If at any time QF or any of its Affiliates intends to Transfer any of the Facility Assets or any of the QF Interests, then QF or the applicable Affiliate(s) shall be obligated to first offer to sell to Alabama Power such Facility Assets or QF Interests and shall provide to Alabama Power notice stating: (a) a description of the QF Interests or Facility Assets proposed to be Transferred; (b) a summary of the desired material terms and conditions of the proposed Transfer, including price; and (c) all information relating to the QF Interests and the Facility Assets which QF has in its possession and of which it is aware (“Offer Notice”).

12.2.3 No later than ten (10) Days after Alabama Power receives the Offer Notice under Section 12.2.2 (and thereafter as may be requested by Alabama Power), QF shall provide Alabama Power access to all information relating to the QF Interests and the Facility Assets and access to the Facility Assets which is reasonably required for Alabama Power to evaluate whether to exercise its ROFO rights under this Section 12.2.

12.2.4 By no later than the date that is ninety (90) Days after both the Offer Notice and access to all information under Section 12.2.3 have been received by Alabama Power, Alabama Power shall have the right (but not the obligation) to notify QF (“Alabama Power ROFO Notice”) that it desires to purchase the applicable Facility Assets or QF Interests



pursuant to the terms set forth in the Offer Notice. If Alabama Power provides such Alabama Power ROFO Notice within such time period, then Alabama Power and QF shall use reasonable efforts to execute and deliver, within ninety (90) Days after the date the Alabama Power ROFO Notice is received by QF (such ninety (90) Day period being referred to as the “ROFO Period”), an agreement whereby Alabama Power would purchase the applicable Facility Assets or QF Interests on terms substantially similar to the terms set forth in the Offer Notice (which shall, in addition, be subject to requisite regulatory approvals applicable to Alabama Power or QF with respect to the Transfer of the Facility Assets or QF Interests, including APSC approval, and other customary conditions to closing). In the event that (i) Alabama Power does not provide a Alabama Power ROFO Notice within ninety (90) Days after the both the Offer Notice and access to all information under Section 12.2.3 have been received by Alabama Power, or (ii) such a purchase agreement is not executed and delivered by the end of the ROFO Period despite the reasonable efforts of the Parties, then QF or the applicable Affiliate of QF shall be free for a period of three hundred sixty five (365) Days after the end of the ROFO Period to consummate the Transfer of the applicable Facility Assets or QF Interests that were the subject of the applicable Offer Notice to any third party so long as the Transfer is at a price that is not lower than the price set forth in the Offer Notice, and on other terms that are no more favorable to such third party than those set forth in such Offer Notice; provided that any requirement(s) for regulatory approvals applicable to Alabama Power (but not to such third party) shall not be considered in determining whether such terms are materially more favorable to such third party than those set forth in such Offer Notice. In the event that the consummation of such Transfer does not occur within such three hundred sixty-five (365) Day period, then neither the QF Interests nor the Facility Assets shall be Transferred until Alabama Power is provided with a ROFO and other rights pursuant to this Section 12.2 and QF again complies with the requirements of this Section 12.2.

12.2.5 In the event that QF (or any of its applicable Affiliates) consummates a Transfer of the QF Interests or the Facility Assets as permitted by Section 12.2.4, this Section 12.2 and the rights and obligations of the Parties under this Section 12.2 shall continue in full force and effect for the Term and shall apply to any and all subsequent Transfers of any Facility Assets or QF Interests that may be intended by the applicable QF or its Affiliates under during the Term.

12.2.6 Upon notice to QF, Alabama Power shall be entitled to assign its rights and obligations under this Section 12.2 to any of its Affiliates without the prior consent of QF.

12.2.7 Upon request by Alabama Power, QF shall promptly execute such documentation and instruments as reasonably requested by Alabama Power that set forth Alabama Power’s rights under this Section 12.2, which Alabama Power may record to give public notice of such rights.

12.2.8 Nothing in this Section 12.2 shall be construed as limiting the obligations of QF under Section 12.1 with respect to assignments and Changes in Control, including the requirement to obtain Alabama Power's consent as set forth therein.

12.3 Costs of Alabama Power. QF agrees that: (i) in the event QF proposes to assign or transfer any indirect or direct interest in the Energy Facility or the BESS, or the CPE Agreement or this Addendum (including any collateral assignment for financing purposes); (ii) there is a Change in Control proposed by QF; or (iii) QF requests Alabama Power to execute a written consent or other document in connection with either of the foregoing, then in any case of (i), (ii) or (iii), QF shall be responsible for all costs and expenses incurred by Alabama Power (including legal fees and expenses) that arise from or relate to the same, including the evaluation, negotiation, preparation, execution and/or delivery of such documents.

### **ARTICLE 13**

#### **MISCELLANEOUS**

The provisions of Article 13 of the CPE Agreement are hereby incorporated into this Addendum, *mutatis mutandis*.

[The next page is the signature page.]

IN WITNESS WHEREOF, QF and Alabama Power have caused this Addendum to be executed by their duly authorized representatives as of the Addendum Effective Date.

**ALABAMA POWER COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**[QF]**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENT 1**  
**MONTHLY CAPACITY PAYMENT**

**A. Capacity Payment.** For each Month of each BESS Contract Year, Alabama Power shall pay to QF the Monthly Capacity Payment (“MCP”) calculated as follows:

$$\text{MCP} = \text{MMCP} - \text{MCPR}$$

Where:

MMCP = Maximum Monthly Capacity Payment, determined as follows:

$$\text{MMCP} = (\text{BCC} * \text{CP} * \text{MVF})$$

Where:

BCC = the BESS Contract Capacity (in MW) for such Month, as set forth in **Attachment 2**.

CP = the Capacity Price as set forth in Section B of this **Attachment 1**.

MVF = the applicable Monthly Value Factor set forth in Section C of this **Attachment 1**.

In the event that the BESS Service Commencement Date occurs on a Day other than the first Day of a Month, or if the last Day of the BESS Service Term occurs on a Day other than the last Day of a Month, the Maximum Monthly Capacity Payment will be determined on a pro rata basis.

MCPR= The Monthly Capacity Payment Reduction, which shall be equal to the greater of (i) the Monthly Performance Metric Reduction determined for such Month (as calculated by Alabama Power pursuant to Section D of this **Attachment 1**); or (ii) the total Replacement Costs determined for such Month (as calculated by Alabama Power pursuant to Section E of this **Attachment 1**).

If the Monthly Capacity Payment Reduction is greater than or equal to the Maximum Monthly Capacity Payment for the applicable Month, then the Monthly Capacity Payment will be reduced to zero dollars (\$0.00), and Alabama Power will not be required to pay QF a Monthly Capacity

Payment for such Month. Any Monthly Capacity Payment Reduction, if applicable, shall be reflected on each applicable Monthly invoice for the Monthly Capacity Payment.

Alabama Power will not owe QF a Monthly Capacity Payment for, and will not otherwise owe QF any payment or other compensation for the capacity of the BESS for: (i) any Month prior to the Month of the BESS Service Commencement Date, and (ii) Alabama Power will not owe QF any payment or other compensation for a BESS Contract Year for the capacity of the BESS except the Monthly Capacity Payments.

**B. Capacity Price.** The Capacity Price is \$[\_\_\_\_\_] / MW-year.<sup>1</sup>

**C. Monthly Value Factors.** The Monthly Value Factors for each Month are as follows:

Month	Monthly Value Factor
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

Notwithstanding the Monthly Value Factors above, Alabama Power shall be entitled, in its sole and absolute discretion, to modify the Monthly Value Factors for any or all Months of a BESS Contract Year by providing notice to QF, provided that: (i) Alabama Power provides QF such notice at least one hundred eighty (180) Days prior to the commencement of the applicable BESS Contract Year; (ii) each Monthly Value Factor must be at least equal to 0.01; and (iii) the sum of all Monthly Value Factors for each BESS Contract Year must equal 1.0.

**D. Monthly Performance Metric Reduction.**

---

<sup>1</sup> NOTE: The Capacity Price for each year will vary by BESS facility based on a number of factors, including term, size of the BESS and the Energy Facility and duration of the BESS.

QF guarantees that the Monthly Storage Performance Metric (“MSPM”) shall be at least ninety-six percent (96%) for each Month. In the event that the MSPM (as determined below) for any Month is less than ninety-six (96%), then the Monthly Performance Metric Reduction (“MPMR”) will be as calculated as follows:

$$\text{MPMR} = \text{MMCP} * \text{MSF}$$

Where:

MMCP = the Maximum Monthly Capacity Payment as determined in Section A of this **Attachment 1**.

MSF = the Monthly Storage Factor as calculated in Table 1 below, based on the MSPM for the Month.

**Table 1**  
**Monthly Storage Factor**

<u>Monthly Storage Performance Metric (“MSPM”), as determined below.</u>	<u>Monthly Storage Factor (“MSF”)</u>
Greater than or equal to 96%	0
Less than 96% but at least 75%	(96% – MSPM) * 2.0
Less than 75%	1.0

For a MSPM of at least seventy-five percent (75%) but less than ninety-six percent (96%), the MSF is equal to two (2.0) multiplied by each percent or fraction thereof of MSPM shortfall below ninety-six percent (96%). For example, in the event the MSPM is ninety-five and two tenths percent (95.2%), there will be an eight tenths percent (0.8%) shortfall below ninety-six percent (96%), and the MSF will be equal to one and six tenths percent (1.6%).

If the MSPM is less than seventy-five percent (75%), then the MSF for the month will be equal to one (1.0).

For purposes of this Addendum, the Monthly Storage Performance Metric (“MSPM”) for each Month shall be calculated as follows:

Upon the conclusion of each Month, Alabama Power will determine the MSPM for such Month by calculating two components: (1) the Energy Storage Performance Metric; and (2) the Charge/Discharge Rate Performance Metric. The Energy Storage Performance Metric and the Charge/Discharge Rate Performance Metric for the Month will be averaged, with the result being the MSPM for the Month.

**A. Energy Storage Performance Metric**

The Energy Storage Performance Metric will be calculated for each Month as follows:

$$\text{Energy Storage Performance Metric} = \frac{[\sum_{i=1}^n \text{5 Minute Minimum Storage Capability}_i]}{[\sum_{i=1}^n \text{BOE}_i]}$$

Where:

n = total number of 5-Minute Periods in the Month, excluding 5-Minute Periods of BESS Scheduled Outages approved by Alabama Power.

i = each 5-Minute Period in the Month, excluding 5-Minute Periods of BESS Scheduled Outages approved by Alabama Power.

5 Minute Minimum Storage Capability (in MWh) = the minimum storage capability of the BESS over each 5-Minute Period (which shall be capped at the amount of the BOE) as reported by QF or as determined by Alabama Power from QF's non-compliance with AGC signals or Alabama Power's other requests for energy from the BESS.

BOE or BESS Operating Energy (in MWh) = the BESS Operating Energy as defined in **Attachment 2**.

The Energy Storage Performance Metric for a Month shall not exceed 1.0. QF will provide Alabama Power real-time access to QF's control system, as needed, in order to facilitate Alabama Power's determination of the values comprising the above calculations.

**B. Charge/Discharge Rate Performance Metric**

The Charge/Discharge Rate Performance Metric will be calculated for each Month as follows: (Note: all negative values will be converted to absolute values for calculation of this metric):

$$\text{Charge/Discharge Rate Performance Metric} = \frac{[\sum_{i=1}^n \text{5 Minute Min Charge/Discharge Rate Limit}_i]}{[\sum_{i=1}^n \text{BESS Max Rate of Charge or Discharge}_i]}$$

Where:

n = total number of 5-Minute Periods in the Month, excluding 5-Minute Periods of BESS Scheduled Outages approved by Alabama Power.

i = each 5-Minute Period, excluding 5-Minute Periods of BESS Scheduled Outages approved by Alabama Power.

5 Minute Min Charge/Discharge Rate Limit (MW) = the lower of: (1) the smallest rate at which the BESS can be charged (in MW) during the applicable 5-Minute Period, or (2) the smallest rate at which the BESS can be discharged (in MW) during the applicable 5-Minute Period. For both numbers, any rate reductions or limits will either be reported by QF or determined by Alabama Power from QF's non-compliance with AGC signals or Alabama Power's other requests for energy from the BESS. The 5 Minute Min Charge/Discharge Rate Limit shall be capped at the amount of the denominator in the above calculation for each applicable 5-Minute Period.

BESS Max Rate of Charge or Discharge (MW) = the guaranteed maximum instantaneous rate at which the BESS can be charged or discharged, as applicable. For this calculation, Alabama Power will use either the Guaranteed Maximum Instantaneous Charge Rate (which shall be used if the charge rate is used in the numerator above for the applicable 5-Minute Period) or the Guaranteed Maximum Instantaneous Discharge Rate (which shall be used if the discharge rate is used in the numerator above for the applicable 5-Minute Period).

Where:

“Guaranteed Maximum Instantaneous Charge Rate” = the guaranteed maximum instantaneous rate of charge of the BESS (in MW), as set forth in **Attachment 2**.

“Guaranteed Maximum Instantaneous Discharge Rate” = the guaranteed maximum instantaneous rate of discharge of the BESS (in MW), as set forth in of **Attachment 2**.

The Charge/Discharge Rate Performance Metric for a Month shall not exceed 1.0. QF will provide Alabama Power real-time access to QF's control system, as needed, in order to facilitate Alabama Power's determination of the values comprising the above calculations.

#### **E. Replacement Costs**

For purposes of this Addendum, “Replacement Costs” shall mean, for any given Hour when QF does not deliver energy from the BESS to the Interconnection Point as requested by Alabama Power (including through AGC signals), the sum of: (a) the product of: (1) the amount of such energy requested by Alabama Power (including through AGC signals) that is not delivered, multiplied by (2) the difference of the Replacement Price for such Hour minus the price that Alabama Power would have paid for such energy under this Addendum if it had been delivered; plus (b) all energy imbalance charges, transmission costs, penalties, charges and other costs and expenses that Alabama Power incurs as a result of the non-delivery of such energy or as a result of purchasing energy to replace such energy, including pursuant to applicable transmission or other tariffs; provided, however, that if the foregoing sum of (a) and (b) is a negative amount for a given Hour, then the Replacement Costs for such Hour shall be deemed to be equal to zero dollars



(\$0.00).

In addition to the foregoing definition of Replacement Costs, the following terms shall have the respective meanings below:

“Replacement Price” means, for any given Hour during which QF does not deliver energy from the BESS as requested by Alabama Power (including through AGC signals): (i) to the extent that Alabama Power determines in its sole discretion to not make a specific purchase(s) of energy to replace all or a portion of the energy not delivered for such Hour, the System Incremental Cost for such Hour multiplied by 110%, or (ii) to the extent that Alabama Power determines in its sole discretion to make a specific purchase of energy to replace all or a portion of the energy not delivered for such Hour, the price for which Alabama Power purchases energy to replace such energy not delivered (or such applicable portion), plus documented costs and fees reasonably incurred by Alabama Power in purchasing such replacement energy (e.g., broker fees), plus transmission charges and transmission losses, if any, reasonably incurred by Alabama Power to deliver such replacement energy to the applicable Interconnection Point, and administrative costs, if any, reasonably incurred by Alabama Power for such replacement energy (in each case stated in terms of \$/MWh of replacement energy).

“System Incremental Cost” means, for a given Hour, the incremental cost, measured in dollars per MWh, for Alabama Power and its Affiliates to supply the next MWh of energy, after serving the requirements of all of Alabama Power’s and its Affiliates’ native load customers, all other power sales of Alabama Power and its Affiliates (including both firm and non-firm sales), and all contractual obligations of Alabama Power and its Affiliates during such Hour. System Incremental Cost shall include marginal replacement fuel cost, variable operation and maintenance costs, fuel handling costs, emission allowance replacement costs, compensation for transmission losses, delivered cost of energy purchases from others, start-up and unit commitment costs, and any other energy-related costs, all as determined by Alabama Power after the applicable Hour.

QF acknowledges and agrees that neither Alabama Power nor its Affiliates shall be required to utilize or change their utilization of their individually or collectively owned or controlled assets (including electric generation facilities), purchased power or market positions in order to minimize the Replacement Price or Replacement Costs for any given Hour. Further, QF acknowledges and agrees that Alabama Power shall be entitled (but shall not be required) to purchase energy to replace any energy not delivered from any Person(s) in its reasonable discretion and that any such purchase may be utilized in the determination of the Replacement Price and Replacement Costs hereunder.

For billing purposes after the end of each Month, Alabama Power shall provide QF a written statement which sets forth the amount of Replacement Costs as soon as practicable, including the Replacement Price for each applicable Hour. Provided, however, that such calculations may be based on an estimate of the System Incremental Cost for the applicable Hours during such Month. Subsequently, Alabama Power shall calculate the actual System Incremental Cost for each such Hour and re-determine the Replacement Costs and the Monthly Capacity Payment Reduction for the applicable Month based on such actual values. Alabama Power will then true-up the difference

between the Monthly Capacity Payment Reduction previously determined for such Month to the re-determined Monthly Capacity Payment Reduction based on the actual System Incremental Cost in subsequent monthly billings. In the event that a previously determined Monthly Capacity Payment Reduction (based on estimated values of System Incremental Cost) is higher than such re-determined Monthly Capacity Payment Reduction (based on actual values of System Incremental Cost), such true-up shall be implemented through a credit provided to QF. In the event that a previously determined Monthly Capacity Payment Reduction (based on estimated values of System Incremental Cost) is lower than such re-determined Monthly Capacity Payment Reduction (based on actual values of System Incremental Cost), such true-up shall be implemented through an additional amount billed to QF, which shall be paid by QF to Alabama Power within ten (10) Days after receipt of an invoice for such amount.

**F. Annual Charging Energy Performance Reduction (“ACEPR”)**

Alabama Power will calculate the Annual Charging Energy Factor (“ACEF”) for each BESS Contract Year. For each BESS Contract Year, the ACEF shall be equal to the quotient of: (i) the sum of the total Delivered Energy during such BESS Contract Year for which Alabama Power is required to pay QF under the CPE Agreement plus the total amount of energy deliveries curtailed or interrupted by Alabama Power under the CPE Agreement (if any) during such BESS Contract Year for which Alabama Power is required to pay QF under the CPE Agreement; divided by (ii) the Annual Energy Forecast for such BESS Contract Year (as set forth in Attachment 11).

If the ACEF for a BESS Contract Year is equal to or greater than 90%, then the ACEPR for such BESS Contract Year shall be equal to zero dollars (\$0.00). If the ACEF for a BESS Contract Year is less than 90%, then an ACEPR will be calculated for such BESS Contract Year as follows:

If  $65\% \leq \text{ACEF} < 90\%$ , then:

$$\text{ACEPR} = (90\% - \text{ACEF} (\%)) * 2 * \text{Annual Sum of Monthly Capacity Payments}$$

If  $\text{ACEF} < 65\%$ , then:

$$\text{ACEPR} = 50\% * \text{Annual Sum of Monthly Capacity Payments}$$

For this purpose, the “Annual Sum of Monthly Capacity Payments” shall be equal to the total of the Monthly Capacity Payments attributable to the applicable BESS Contract Year (as calculated in Section A of this **Attachment 1**), the first and last of which shall be subject to appropriate proration in the event that a BESS Contract Year does not begin on the first day of a Month or end on the last day of a Month.

Alabama Power will calculate the ACEPR within sixty (60) Days after the end of each BESS Contract Year, and QF shall pay such ACEPR to Alabama Power within twenty (20) Days after receipt of an invoice for the same.

**ATTACHMENT 2**  
**PERFORMANCE GUARANTEES**

**A. Round Trip Efficiency Guarantees.**

QF guarantees that the Actual RTE will be no less than [\_\_\_\_] percent ([\_\_\_\_]%) (“Guaranteed RTE”).

**B. Other BESS Guarantees.**

Other guaranteed performance values of the BESS are as follows:

BESS Contract Capacity: [\_\_\_\_] MW

BESS Discharge Duration Period: [\_\_\_\_] Hours

BESS Operating Energy (BOE) (in MWh): the product of the BESS Contract Capacity and the BESS Discharge Duration Period (i.e., [\_\_\_\_] MWh).

Guaranteed Maximum Instantaneous Charge Rate: [\_\_\_\_] MW

Guaranteed Maximum Instantaneous Discharge Rate: [\_\_\_\_] MW

Other Guaranteed Specifications: [\_\_\_\_\_]

The above performance guarantees are fixed throughout the BESS Service Term and will not lower or degrade. QF will manage, supplement, or augment the BESS to ensure that the performance guarantees are satisfied at no additional cost to Alabama Power. Failure to meet the performance guarantees in any Month will result in Monthly Performance Metric Reductions and/or Monthly Capacity Payment Reductions pursuant to **Attachment 1**.

**ATTACHMENT 3**  
**PERFORMANCE TESTS**

Procedures for testing the performance of the BESS, including for purposes of demonstrating that the guarantees in **Attachment 2** are satisfied, are attached to this **Attachment 3**.

*[Performance test procedures to be provided and attached by Alabama Power.]*

QF and Alabama Power may, by mutual agreement, revise the performance test procedures from time-to-time during the Term.

By no later than [\_\_\_\_\_], QF shall conduct performance tests of the BESS in accordance with the testing procedures in this **Attachment 3** to demonstrate that the guarantees in **Attachment 2** are satisfied. Alabama Power shall be entitled to require QF to conduct additional performance tests during the BESS Service Term to confirm that such guarantees continue to be satisfied or to demonstrate actual performance.

In addition, Alabama Power may require QF to conduct performance tests to demonstrate certain performance characteristics of the BESS, including:

- Electrical Losses to the Interconnection Point and between other points necessary to properly account for Electrical Losses between portions of the Facility prior to the Interconnection Point.
- BESS Capacity
- Actual RTE
- Maximum Charging Rate
- Maximum Discharging Rate
- Minimum Discharging Time
- Minimum Charging Time

Procedures for testing the foregoing performance characteristics are attached to this **Attachment 3**.

*[Test procedures to be provided and attached by Alabama Power.]*

## ATTACHMENT 4

### BESS OPERATING REQUIREMENTS

The Parties agree that at all times, QF shall be responsible for:

1. Discharging and charging of the BESS in accordance with the real-time directions provided by Alabama Power, including through AGC signals;
2. All other aspects of operation and maintenance of the BESS in accordance with Prudent Industry Practices and applicable Legal Requirements;
3. Complying with requirements contained in the Interconnection Agreement, including operation and performance validation requirements; and
4. Adhering to all operational data, interconnection, and telemetry requirements applicable to the BESS.

A. Dispatch.

- (i) During the BESS Service Term, the Parties agree to the following parameters for the dispatch of the BESS:
  - (a) QF shall not charge or discharge the BESS except as specifically directed by Alabama Power.
  - (b) Alabama Power shall control the disposition of all energy going into and out of the BESS using its 6-second AGC signals.
  - (c) Alabama Power shall be able to request that the BESS be dispatched up to three-hundred and sixty-five (365) Cycles per BESS Contract Year, and not to exceed 2 Cycles per day. Alabama Power will track Cycles and ensure it remains in compliance with these requirements.
  - (d) The BESS must be capable of receiving and responding to AGC signals from Alabama Power and allow Alabama Power to monitor, measure, and record the state of charge, Charging Energy, and Discharging Energy at all times in accordance with the AGC requirements defined herein.
  - (e) In the event of an AGC disruption, Alabama Power will communicate BESS operations desired to QF and QF will comply with Alabama Power's requests manually to the best of QF's ability.
  - (f) In no event shall energy delivered from the BESS and the Energy Facility at the Interconnection Point at any given time exceed the Maximum Delivered Capacity Amount.
  - (g) QF shall ensure that the BESS satisfies all operational and performance requirements under the Interconnection Agreement, including when the BESS is discharging (during cycling or otherwise).
- (ii) QF shall provide to Alabama Power, at least [\_\_\_\_] ([\_\_\_\_]) Days prior to the BESS Service Commencement Date, technical limits describing the BESS capability, the routine charge/discharge times required for operation, and response times and ramp rates of the BESS. The technical limits should also include the effects, if any, of ambient temperature on the operation and performance of the BESS.

**B. Charging of the BESS.**

- (i) Alabama Power shall have full control of the disposition of all energy directed into or out of the BESS at no additional cost and the right to charge the BESS using Grid Charging Energy or Energy Facility Charging Energy.
- (ii) QF shall deliver energy produced by the Energy Facility to the Interconnection Point and the BESS strictly in accordance with Alabama Power's instructions. For energy that Alabama Power instructs QF to deliver from the Energy Facility to the Interconnection Point, QF shall deliver such energy from the Energy Facility to the Interconnection Point (i.e., without first delivering such energy to the BESS or using such energy to charge the BESS). For energy from the Energy Facility that Alabama Power instructs QF to use to charge the BESS, QF shall deliver such energy from the Energy Facility directly into the BESS.
- (iii) QF shall deliver energy stored in the BESS strictly in accordance with Alabama Power's instructions. For energy that Alabama Power instructs QF to deliver from the BESS, QF shall deliver such energy from the BESS directly to the Interconnection Point.
- (iv) QF shall not charge the BESS with any energy produced by the Energy Facility unless and except to the extent expressly directed by Alabama Power. QF shall not deliver energy from the BESS unless and except to the extent expressly directed by Alabama Power. QF shall not be paid for any energy delivered to the BESS that is not delivered to the Interconnection Point.
- (v) Alabama Power shall request the BESS use Grid Charging Energy when, in Alabama Power's reasonable determination, the Energy Facility is not generating sufficient energy to charge the BESS, and the use of Grid Charging Energy will enable the BESS to produce Discharging Energy sufficient to alleviate or prevent unanticipated equipment outages and emergencies directly affecting the public health, safety, or welfare, which would result from electric power outages. In no case will Alabama Power request the BESS to use Grid Charging Energy that would result in the amount of Grid Charging Energy exceeding twenty-five percent (25%) of the total Charging Energy of the Energy Facility during the twelve (12)-month period beginning with the date the Energy Facility first produces Discharging Energy or in any calendar year subsequent to the year in which the Energy Facility first produces Discharging Energy.

C. Communications. Real time communications between the QF and Alabama Power are required with respect to the BESS. QF must have the capability to receive real time control signals from Alabama Power as well as to communicate with the BESS status in real time.

## ATTACHMENT 5

### QF INSURANCE REQUIREMENTS

QF must acquire and maintain, at its sole cost and expense, the following:

1. Commercial General Liability insurance, or equivalent coverage, on an “occurrence” form, with bodily injury and property damage combined liability limits of not less than \$[ ] million dollars per occurrence and which shall include specific coverage for broad form contractual liability including QF’s indemnification obligations under this Addendum and the CPE Agreement and a separation of insured provision. QF may use the insurer, Associated Electric & Gas Insurance Services, Limited (“AEGIS”) as its insurer and its “claims made” form to satisfy this requirement; provided, QF shall maintain coverage for a minimum period of five (5) years after the termination of this Addendum.
2. All risk property insurance providing coverage for the full replacement value of the Facility, subject to industry standard sub-limits. Any property insurance deductibles shall be the sole responsibility of QF.
3. Workers’ compensation insurance in statutory amounts covering the legal liability of QF under the applicable laws of the state (or under Federal acts or statutes when appropriate). Such insurance must include employer’s liability in an amount of \$[ ] million dollars.

**ATTACHMENT 6**  
**AGC REQUIREMENTS**

1.1 For purposes hereof, the following definitions have the meanings set forth below:

**“AGC Setpoint Response Performance Metric”** has the meaning set forth in **Attachment 8**.

**“AGC Setpoint Response Performance Requirement”** has the meaning set forth in **Attachment 8**.

**“AGC Setpoint”** means a value (MW) that will range from 0 to the maximum Facility output.

**“AGC Status Performance Metric”** has the meaning set forth in **Attachment 8**.

**“AGC Status Performance Requirement”** has the meaning set forth in **Attachment 8**.

1.2 AGC. QF will, at its expense, install, operate and maintain AGC equipment and systems at the BESS as necessary to enable the BESS to respond to and follow Alabama Power’s AGC Setpoint signals. QF is responsible for all costs incurred with respect to the BESS that are necessary to make the BESS respond to Alabama Power’s AGC Setpoint signals. The BESS must be capable of remaining on AGC at all times. The BESS’s AGC systems will include all necessary connections to the AGC equipment and systems of Alabama Power (to Alabama Power’s reasonable satisfaction) to enable Alabama Power to send AGC Setpoint signals to the BESS and measure, record and control energy input and output from the BESS at all times. The BESS’s AGC system must be configured to interface with Alabama Power’s AGC remote terminal unit (RTU) to send and receive data for AGC that satisfies the minimum data requirements in **Attachment 7**. The BESS’s AGC system must conform to Prudent Industry Practices.

1.2.1 QF is responsible for operating the BESS and producing, storing and delivering energy in compliance with Alabama Power’s AGC Setpoint signals. QF must telemeter the



maximum Rate of Change at all times during the operation of the BESS, and Alabama Power's AGC Setpoint signal will include the maximum Rate of Change as a limiting factor for changes in energy output. For purposes hereof, the "Rate of Change" is the real-time maximum ramp rate when increasing or decreasing output (accounting for any equipment or operational issues which may affect such ramp rate).

1.2.2 Attachment 8 prescribes the AGC Status Performance Requirement and the AGC Setpoint Response Performance Requirement. QF is responsible for achieving the AGC Status Performance Requirement and the AGC Setpoint Response Performance Requirement for each Month. If QF fails to achieve the AGC Status Performance Requirement or the AGC Setpoint Response Performance Requirement for (i) any three (3) consecutive Month period or (ii) six (6) Months in any twelve (12) Month period, then QF's failure shall constitute an Event of Default as set forth in Attachment 8.

## ATTACHMENT 7

### AGC MINIMUM DATA REQUIREMENTS

The BESS's AGC system must be configured to interface with Alabama Power's AGC remote terminal unit (RTU) to send and receive the following data for AGC:

#### From Alabama Power to BESS

- Setpoint (MW)

#### From BESS to Alabama Power

- Generation (MW)
  - Positive to indicate discharging
  - Negative to indicate charging
- On AGC signal (True/False)
- SOC (MWh)
- Max SOC (MWh)
- Min SOC (MWh)
- Current Discharge Limit [Operating High Limit (MW)]
- Max Discharge Limit [High Limit (MW)]
- Current Charge Limit [Operating Low-Limit (MW)]
- Max Charge Limit [Low Limit (MW)]
- Discharge AGC Ramp Increase (+MW/min)
- Charge AGC Ramp Decrease (-MW/min)
- Average Site Cell Temperature, if available (°C)
- Aux Power (MW)
- % of stacks in service
- Storage Setpoint Feedback (MW)
- Equivalent cycles/day counter
- Equivalent cycles/year counter

#### General Flow of AGC

The BESS will transmit in 6-second intervals all of its points to Alabama Power and Alabama Power will update its points every scan. The BESS will calculate the BESS's maximum MW and BESS's minimum MW and will transmit those to Alabama Power every scan. The BESS will also transmit its AGC rate of change for both increase and decrease and will echo back to Alabama Power what it has received for the AGC Setpoint.

#### Explanation of Points

##### From Alabama Power to BESS

- **Setpoint (MW)**: A value up to the current charge / discharge limit MW for the BESS in a positive (discharge) or a negative (charge) direction. The Facility is expected to regulate to meet this value at the POI.

## From BESS to Alabama Power

- **Generation (MW):**
  - Aggregated Gross Storage MW and Aggregated Storage MW at the Interconnection Point;
  - Positive to indicate discharging; and
  - Negative to indicate charging.
- **On AGC signal:** An integer value that will range from 0 to 1. A '0' value will indicate the BESS is on local control and a '1' will indicate the BESS is available for remote control.
- **SOC (MWh):** A value representing the actual state of charge (SOC) and range from the minimum declared MWh to the maximum declared MWh for the device. This calculated value represents the AC energy that can be delivered at the Interconnection Point (not the DC energy stored in the BESS).
- **Max SOC (MWh):** A value indicating the maximum state of charge capability for the BESS. This is a calculated value and not the nameplate to give the operating range of the system.
- **Min SOC (MWh):** A value indicating the minimum state of charge capability for the BESS. This is a calculated value and not the nameplate to give the operating range of the system.
- **Current Discharge Limit [Operating High Limit (MW)]:** A value indicating the real-time maximum rate of power the BESS can be discharged (MW). Discharged power is provided as a positive (+) value. Dependent on state of system (any derated equipment or abnormal conditions).
- **Max Discharge Limit [High Limit (MW)]:** A value indicating the real-time maximum rate of power the BESS can be discharged (MW) provided as a positive (+) value. Independent of state of system.
- **Current Charge Limit [Operating Low Limit (MW)]:** A value indicating the real-time minimum rate of power the BESS can be charged (MW) provided as a negative (-) value. Dependent on state of system.
- **Max Charge Limit [Low Limit (MW)]:** A value indicating the real-time maximum rate of power the BESS can be charged (MW) provided as a negative (-) value. Independent of state of system.
- **Discharge AGC Ramp Increase (+MW/min):** A value indicating the maximum rate of power the BESS can be discharged (MW) provided as a positive (+) value. The value should reflect the real-time capability to prevent AGC Setpoints from exceeding the tolerance.

- **Charge AGC Ramp Decrease (-MW/min)**: A value indicating the maximum rate of power the BESS can be charged (MW) provided as a negative (-) value. The value should reflect the real-time capability to prevent AGC Setpoints from exceeding the tolerance.
- **Average Site Cell Temperature, if available (°C)**: A value indicating average site cell temperature provided as degrees Fahrenheit.
- **Aux Power (MW)**: A value indicating station service load (MW) if applicable.
- **% of stacks in service**: A value indicating the number of battery stacks/racks in service and expressed as a percentage.
- **BESS Setpoint Feedback (MW)**: An echo of the value received from EMS for the EMS setpoint.
- **Equivalent cycles/day counter**: This value will be an equivalent cycles per day calculated based on (i) the amount of energy discharged at the Interconnection Point from the BESS, divided by (ii) the maximum declared MWh of the BESS. This will be reset to 0 at midnight and will be passed to the EMS to ensure the desired number of equivalent cycles per day is not exceeded.
- **Equivalent cycles/year counter**: This value will be an equivalent cycles per year calculated based on (i) the amount of energy discharged at the Interconnection Point from the BESS, divided by (ii) the maximum declared MWh of the BESS. This will be cumulative and will be passed to the EMS to ensure the desired number of equivalent cycles per year is not exceeded.

## ATTACHMENT 8

### AGC PERFORMANCE METRICS AND PERFORMANCE REQUIREMENTS

Upon the conclusion of each Month, Alabama Power will perform the necessary calculations for each of the AGC Status Performance Metric and the AGC Setpoint Response Performance Metric to determine whether QF has achieved the AGC Status Performance Requirement and the AGC Setpoint Response Performance Requirement, respectively.

#### AGC Status Performance Requirement:

The AGC Status Performance Requirement for each Month is that the AGC Status Performance Metric for the Month will equal ninety percent (90%), or greater. The AGC Status Performance Metric for each Month will be calculated as follows:

$$\text{AGC Status Performance Metric} = \left[ \sum_{i=1}^n \left( \frac{\text{AGC Status}_i}{n} \right) \right] * 100$$

Where:

n = total 6-seconds AGC periods in the Month

i = 6-seconds data point

AGC Status = one (1) if the BESS is in AGC mode and capable of responding to Alabama Power's AGC Setpoint signal, or zero (0) if the BESS is not in AGC mode and is not capable of responding to Alabama Power's AGC Setpoint signal.

If the AGC Status Performance Metric equals less than ninety percent (90%) for (i) any three (3) consecutive month period or (ii) six (6) months in any twelve (12) month period then QF's failure to meet the AGC Status Performance Requirement shall constitute an Event of Default pursuant to Section 7.1.

#### AGC Setpoint Response Performance Requirement:

The AGC Setpoint Response Performance Requirement for each Month is that the AGC Setpoint Response Performance Metric for the Month must be less than or equal to five (5). The AGC Setpoint Response Performance Metric for each Month will be calculated as follows:

$$\text{Root Mean Squared Error (RMSE)} = \sqrt{\sum_{i=1}^n \frac{(\text{AGC Setpoint}_i - \text{BESS Energy Output}_i)^2}{n}}$$

Where:

AGC Setpoint = AGC Setpoint value in MW for the 6-seconds period

BESS Energy Output = the energy (MW) either delivered from the BESS or to the BESS for the 6-seconds period

n = total 6-second AGC periods in the Month for which there was a non-zero AGC Setpoint Signal

i = 6-seconds data point

For the avoidance of doubt, all 6-second periods for which the AGC Setpoint = 0 MW will be excluded from the calculation of RMSE.

If the AGC Setpoint Response Performance Metric is greater than five (5) for (i) any three (3) consecutive Month period or (ii) six (6) months in any twelve (12) Month period then QF's failure to meet the AGC Setpoint Response Performance Requirement shall constitute an Event of Default pursuant to Section 7.1.

**ATTACHMENT 9**

**CRITICAL MILESTONES AND REQUIRED MILESTONE DATES**

<b>Critical Milestone</b>	<b>Required Milestone Date</b>	<b>Evidence of Achievement of Critical Milestone</b>
Full execution of the Interconnection Agreement	Within thirty (30) days after QF is presented with an executable version of the Interconnection Agreement.	An executed copy of the Interconnection Agreement
Achieve “Site Control”, defined as QF obtaining: (i) ownership and title to the entire Site; (ii) a valid and binding leasehold interest in the entire Site through at least the end of the BESS Service Term; or (iii) binding and irrevocable options to acquire the interests set forth in the foregoing (i) or (ii) that are exercisable in QF’s sole and absolute discretion	<i>[To be inserted]</i>	A copy of the applicable documents that evidence Site Control, including applicable deeds, leases, options to lease and options to purchase.
Full execution of all Equipment Procurement Agreements by QF and the applicable vendors and suppliers. “Equipment Procurement Agreements” means legally binding contracts entered into by QF and the applicable vendor or supplier for the major equipment components needed to construct and install the Facility pursuant to this Addendum and the CPE Agreement (including all solar photovoltaic modules, inverters, transformers and BESS components for installation at the Facility), and which includes binding	<i>[To be inserted]</i>	An executed copy of the Equipment Procurement Agreements with pricing redacted, including a description of the country of origin for all equipment components to be supplied under such agreements.

<p>contract(s) schedules for the supply, installation, completion and commissioning activities for such components that will enable QF to achieve the BESS COD Date by the Required BESS COD Date; provided that the Equipment Procurement Agreements must specifically reference the Facility and provide that the components included therein are reserved and dedicated for installation at the Facility.</p>		
<p>Full execution of the EPC Contract by QF and its contractor(s) that will perform the engineering, procurement and construction activities for the Facility. “EPC Contract” means a legally binding contract(s) entered into by QF with a contractor(s) for the engineering, procurement and construction of the Facility pursuant to this Addendum and the CPE Agreement, and which includes a binding contract schedule for the supply, installation, construction and completion and commissioning activities for the Facility that will enable QF to achieve the BESS COD Date by the Required BESS COD Date.</p>	<p><i>[To be inserted]</i></p>	<p>An executed copy of the EPC Contract with pricing redacted.</p> <p>To the extent any major equipment necessary to develop and operate the Facility will be procured under the EPC Contract, QF shall identify the equipment to be procured under the EPC Contract.</p>
<p>Achieve Financial Closing, defined the occurrence of all of the following: (i) QF has obtained and has closed on all financing arrangements necessary to obtain funds for</p>	<p><i>[To be inserted]</i></p>	<p>A letter from an officer of QF certifying that Financial Closing (as defined herein) has occurred.</p>



<p>the anticipated costs of completing construction of the Facility; and (ii) all of the conditions precedent to the availability of funds pursuant to such financing arrangements have been satisfied or waived by the applicable parties (other than customary conditions to each drawdown of a construction loan), and such funds (subject to customary conditions to each drawdown of a construction loan) will be made available for disbursement to QF.</p>		
<p>QF has obtained all Consents required for construction of the Facility</p>	<p><i>[To be inserted]</i></p>	<p>A matrix of required Consents and a copy of Consents obtained.</p>
<p>Issuance of Interconnection Notice to Proceed</p>	<p>The date by which the Interconnection Notice to Proceed is required to be issued in order for the BESS COD Date to be achieved by the Required BESS COD Date, as such date is set forth in the Interconnection Agreement.</p>	<p>An executed copy of the applicable Interconnection Notice to Proceed under the Interconnection Agreement.</p>
<p>Issuance of Full Notice to Proceed (or equivalent directive) under the EPC Contract</p>	<p><i>[To be inserted]</i></p>	<p>An executed copy of the applicable Full Notice to Proceed (or equivalent directive) under the EPC Contract.</p>
<p>Delivery to Alabama Power of the Level 3 construction and completion schedule for the Facility under the EPC Contract that has been updated in good faith that supports and reflects that the BESS COD Date will occur by no later than the Required BESS COD Date.</p>	<p><i>[To be inserted]</i></p>	<p>A copy of the Level 3 construction and completion schedule for the Facility under the EPC Contract that has been updated in good faith that supports and reflects that the BESS COD Date will occur by no later than the Required BESS COD Date.</p>

Fulfillment of all BESS COD Criteria	<i>[To be inserted]</i>	Satisfaction of the requirements set forth in the definition of “BESS COD Criteria” in Article 1 of this Addendum.
--------------------------------------	-------------------------	--

**ATTACHMENT 10**

**BESS ENERGY STORAGE SYSTEM AND SINGLE-LINE DIAGRAM**

*[Include description and single line diagram]*

**ATTACHMENT 11**

**ANNUAL ENERGY FORECAST**

<b>BESS Contract Year</b>	<b>Annual Energy Forecast (MWh)</b>
1	
2	
3	
4	
5	