

**DRAFT**  
**May 8, 2014**

**AMENDED AND RESTATED PLANT VOGTLE ADDITIONAL UNITS  
NON-PPA POWER SALES CONTRACT BETWEEN MUNICIPAL ELECTRIC  
AUTHORITY OF GEORGIA AND THE UNDERSIGNED ADDITIONAL UNITS  
NON-PPA PARTICIPANT**

FULTON COUNTY

STATE OF GEORGIA

This Amended and Restated Plant Vogtle Additional Units Non-PPA Power Sales Contract is made and entered into as of \_\_\_\_\_, 2014 (the “Execution Date”), by and between the Municipal Electric Authority of Georgia, a public body corporate and politic, a public corporation and an instrumentality of the State of Georgia, hereinafter sometimes designated as the “Authority”, created by the provisions of Georgia Law, Ga. L. 1975, p. 107, *et seq.*, codified at O.C.G.A. § 46-3-110, *et seq.*, as amended from time to time, and the undersigned political subdivision of the State of Georgia, hereinafter sometimes designated as the “Additional Units Non-PPA Participant.”

**W I T N E S S E T H:**

WHEREAS, the Authority owns an undivided ownership interest in two additional nuclear generating units under construction at Plant Vogtle in Burke County, Georgia, a portion of which ownership interest is known as the “Plant Vogtle Additional Units Non-PPA Project” or “Project M,” a portion of which ownership interest is known as the “Plant Vogtle Additional Units PPA Project” or “Project J” and the remainder of which ownership interest is known as the “Plant Vogtle Additional Units PPA-2 Project” or “Project P”; and

WHEREAS, the Additional Units Non-PPA Participant has need for an additional economical, reliable source of electric power and energy to meet the growing demands of its customers and has determined to purchase such electric power and energy from the Non-PPA Project referred to herein; and

WHEREAS, the Authority has taken or caused to be taken or will take or cause to be taken all steps necessary to secure such governmental permits, licenses and approvals as are necessary for, and has proceeded or will then proceed as appropriate with final design, financing and acquisition or construction of those facilities herein described and designated as the Non-PPA Project for the supply of electric power and energy to the Additional Units Non-PPA Participant and to all other political subdivisions contracting with the Authority therefor, and will sell the output and services of such facilities pursuant to this Contract and to contracts of similar subject matter (together with this Contract, the “Contracts”) with such other political subdivisions (together with the Additional Units Non-PPA Participant, the “Additional Units Non-PPA Participants”); and

WHEREAS, in order to enable the Authority to issue its revenue Non-PPA Bonds (such term, and all other capitalized terms used in these recitals without definition, having the respective meanings assigned thereto in Section 103 hereof) and the Non-PPA Project Entity to obtain the DOE Guaranteed Loan to pay the costs of acquiring and constructing the Plant Vogtle Additional Units Non-PPA Project, it is necessary (i) for the Authority to have binding Contracts with such political subdivisions of the State of Georgia as have determined, pursuant to the Act, to contract with the Authority, and (ii) that certain payments required to be made in accordance with the provisions of Article III

of such Contracts, including payments required to be made under Article III of this Contract, and certain other payments attributable to the Plant Vogtle Additional Units Non-PPA Project or to the Plant Vogtle Additional Units Non-PPA Project Annual Costs, to be made in accordance with or pursuant to the Contracts be pledged as security for the payment of such Non-PPA Bonds and the DOE Guaranteed Loan; and

WHEREAS, the Authority and the Additional Units Non-PPA Participant entered into the Plant Vogtle Additional Units Non-PPA Power Sales Contract dated as of June 15, 2008 (the “Original Contract”) relating to the Plant Vogtle Additional Units Non-PPA Project; and

WHEREAS, as an additional source of financing, the Authority may decide to obtain a loan to be made by the Federal Financing Bank (“FFB”) or other third-party lenders and guaranteed by the Department of Energy (“DOE”) pursuant to Title XVII of the Energy Policy Act of 2005 (the “DOE Guaranteed Loan”); and

WHEREAS, in the event that the Authority does decide to obtain the DOE Guaranteed Loan, in order to facilitate compliance with rules and regulations relating to the DOE Guaranteed Loan, the Authority will transfer the portion of its undivided ownership interest in the Additional Units that currently constitutes a part of the Plant Vogtle Additional Units Non-PPA Project to the Non-PPA Project Entity; and

WHEREAS, the Authority will simultaneously enter into the Non-PPA Project Entity Power Purchase Agreement with the Non-PPA Project Entity, for the purchase and sale of all of the output and services of the Additional Units Non-PPA Project for resale to the Additional Units Non-PPA Participants under the Contracts during the terms of the Contracts; and

WHEREAS, the Authority and the Additional Units Non-PPA Participant desire to amend and restate the Original Contract on the terms and conditions hereof in connection with the foregoing.

NOW, THEREFORE:

For and in consideration of the premises and the mutual covenants hereinafter set forth, and in order to pay the Authority for its costs of providing to the Additional Units Non-PPA Participant output and related services from the Plant Vogtle Additional Units Non-PPA Project, it is agreed by and between the parties hereto as follows:

**ARTICLE I  
EFFECTIVENESS; TERM OF CONTRACT;  
AND DEFINITIONS**

**SECTION 101. EFFECTIVENESS.**

Notwithstanding anything to the contrary herein, this Contract shall become fully binding and enforceable on the Execution Date; provided, that the obligations of the Authority and the Additional Units Non-PPA Participant hereunder shall not commence, the terms and conditions hereof other than this Section 101 shall not be effective, and the Original Contract shall not be amended and restated by this Contract, in each case, until the occurrence of the "Effective Date." The Effective Date shall occur automatically, without any further action, consent or agreement of the Authority and the Additional Units Non-PPA Participant, on the date of issuance of the "DOE Guarantee" (as defined in the DOE Loan Guarantee Agreement).

In the event, however, that (a) the Effective Date shall not occur on or before January 1, 2017 or (b) the DOE Loan Guarantee Agreement and the other DOE Loan Documents shall be terminated prior to the making of any Advance, then this Contract

shall be null and void and without further force or effect, and the Original Contract shall continue in full force and effect, except as amended as set forth in Schedule I hereto.

**SECTION 102. TERM.**

The term of this Contract shall begin and, subject to Section 101, this Contract shall constitute a binding obligation of the parties hereto from and after its execution by the last party to execute the same. The term of this Contract shall continue in full force and effect until such time, not exceeding fifty (50) years from the Execution Date, as all of the Authority's Non-PPA Bonds or notes issued in anticipation of the issuance of Non-PPA Bonds and the interest thereon, all of the Advances and the interest thereon and all other Debt Service have been paid or provision for payment shall have been made in accordance with the provisions thereof and all obligations of the Non-PPA Project Entity under the DOE Loan Documents have been satisfied and all lending commitments thereunder have been terminated or until such time as the Plant Vogtle Additional Units Non-PPA Project shall be retired from service or disposed of or decommissioned by the Authority, whichever is later; provided, however, that any decision by the Authority to dispose of the Plant Vogtle Additional Units Non-PPA Project must be consistent with Prudent Utility Practice and the Authority's purpose as stated in the Act, and must also be consistent with the goal of advancing the collective interests of the Additional Units Non-PPA Participants.

**SECTION 103. DEFINITIONS AND EXPLANATIONS OF TERMS.**

As used herein:

"Act" shall mean that certain Act of the 1975 session of the General Assembly of the State of Georgia, compiled and published in Georgia Law 1975, p. 107, *et seq.*,

codified at O.C.G.A. Section 46-3-110 through 155, as the same has been heretofore or may be hereafter amended.

“Additional Units” shall mean the two 1102 megawatts Nominally Rated additional nuclear units being constructed at Plant Vogtle, in Burke County, Georgia, pursuant to the Development Agreement.

“Additional Units Non-PPA Participant” shall mean a Participant that is a party to a Plant Vogtle Additional Units Non-PPA Power Sales Contract and any other party as assignee of such Power Sales Contract pursuant to Section 702 thereof. “Additional Units Non-PPA Participants” shall mean all Participants that are parties to Plant Vogtle Additional Units Non-PPA Power Sales Contracts. The term “an Additional Units Non-PPA Participant” or “each Additional Units Non-PPA Participant” shall mean any one of the Additional Units Non-PPA Participants or each of the Additional Units Non-PPA Participants, as the case may be.

“Advance” shall mean an advance or borrowing of the DOE Guaranteed Loan made pursuant to the DOE Loan Documents from either FFB or the Other Lenders, as applicable.

“Authority’s Interest” shall have the meaning set forth in Attachment A hereto.

“Build America Bonds” shall mean any Non-PPA Bonds with respect to which the Authority has irrevocably elected, pursuant to Section 54AA(g) of the Internal Revenue Code of 1986, as amended, or any other similar federal program creating subsidies for municipal borrowers for which the Authority qualifies, to receive cash subsidy payments from the United States Treasury equal to a portion of the interest payable on such Non-PPA Bonds.

“Commercial Operation” shall mean achieving “Commercial Operation” within the meaning of the Operating Agreement.

“Commercial Operation Date” shall mean, with respect to each of the Additional Units, the date on which such Additional Unit achieves “Commercial Operation”.

“Contract” shall mean this Plant Vogtle Additional Units Non-PPA Power Sales Contract, by and between the Authority and the Additional Units Non-PPA Participant, as the same may be amended from time to time. “Contracts” shall mean, respectively, this Contract with the Additional Units Non-PPA Participant and all the other contracts of similar subject matter with other Additional Units Non-PPA Participants, as the same may be amended from time to time.

“Costs of Acquisition and Construction” shall mean, to the extent not included in the Plant Vogtle Additional Units Non-PPA Project Annual Costs, all costs and expenses incurred by or for the account of the Authority or the Non-PPA Project Entity for the planning, designing, acquiring, constructing, and installing the Non-PPA Project Entity’s Ownership Interest, including, without limitation, any major renewals, replacements, repairs, additions, betterments or improvements necessary in the opinion of the Authority or the Non-PPA Project Entity, to keep the Non-PPA Project Entity’s Ownership Interest in good operating condition or to prevent a loss of revenues therefrom, placing the Non-PPA Project Entity’s Ownership Interest in operation, disposing of the Non-PPA Project Entity’s Ownership Interest, and obtaining governmental approvals, certificates, permits and licenses with respect thereto heretofore or hereafter paid or incurred by, or for the account of, the Authority or the Non-PPA Project Entity, as applicable, including, without limitation, the following:

(1) working capital reserves in such reasonable amounts as may be established by the Authority or the Non-PPA Project Entity for the Non-PPA Project Entity's Ownership Interest (including working capital reserves held in (a) funds or accounts established under the Non-PPA Bond Resolution and (b) accounts established under the DOE Accounts Agreement);

(2) acquisition of initial inventories or prepayment of Fuel for the Non-PPA Project Entity's Ownership Interest and working capital and reserves therefor and working capital and reserves for additional inventories or prepayment of Fuel for the Non-PPA Project Entity's Ownership Interest held by, or for the account of, either the Authority or the Non-PPA Project Entity;

(3) charges related to processing, design, fabrication, transportation, disposal and storage of Fuel for the Non-PPA Project Entity's Ownership Interest, including, without limitation, the following: (a) Fuel storage facilities, including spent fuel storage facilities; and (b) working capital and reserves related to acquisition, processing, design, fabrication, transportation, disposal and storage of Fuel for the Non-PPA Project Entity's Ownership Interest;

(4) reserves for renewals and replacements, retirement from service, or disposal of any facility of the Non-PPA Project Entity's Ownership Interest and contingencies held by, or for the account of, either the Authority or the Non-PPA Project Entity;



(5) training and testing costs incurred by the Authority or the Non-PPA Project Entity attributable to the Non-PPA Project Entity's Ownership Interest;

(6) preliminary investigation and development costs, engineering fees, contractors' fees, costs of labor, materials, equipment, utility services and supplies and legal costs attributable to the Non-PPA Project Entity's Ownership Interest and the Non-PPA Project;

(7) all costs of insurance applicable to the period of construction of the Non-PPA Project Entity's Ownership Interest; and

(8) amounts necessary to provide funds for contribution to the Non-PPA Project Entity (1) to pay, in whole or in part, any Advance on the DOE Guaranteed Loan when due (whether at the maturity of principal or upon prepayment) and (2) to pay all outstanding Advances on the DOE Guaranteed Loan when due (whether at the maturity of principal or upon prepayment) and, in connection therewith, to reacquire from the Non-PPA Project Entity the Non-PPA Project Entity's Ownership Interest.

Costs of Acquisition and Construction shall also include all other costs, except Financing Costs, incurred by the Authority or the Non-PPA Project Entity and properly allocable to planning, designing, acquiring, constructing and installing the Non-PPA Project Entity's Ownership Interest and the establishment of the Plant Vogtle Additional Units Non-PPA Project including, without limitation, (i) all costs associated with the transfer to the Non-PPA Project Entity of the Non-PPA Project Entity's Ownership Interest and the entry by the Non-PPA Project Entity into the DOE Loan Guarantee Agreement and the other DOE

Loan Documents, (ii) the Additional Costs as described and defined in Section 2.2 of the Development Agreement attributable to the Non-PPA Project Entity's Ownership Interest and (iii) amounts required to reimburse and the Additional Units Non-PA Participants for amounts paid by them in respect of the principal of maturing Non-PPA BANs.

"Debt Service" shall mean, with respect to any period, the aggregate of the amounts required by the Non-PPA Bond Resolution or the DOE Loan Documents to be paid by the Authority or the Non-PPA Project Entity, respectively, during said period into any fund or funds created by the Non-PPA Bond Resolution or any account or accounts created by the DOE Accounts Agreement, as applicable, for the sole purpose of paying (i) the principal (including the sinking fund or equivalent payment installments) of, and premium, if any, and interest on, Non-PPA Bonds or the DOE Guaranteed Loan, as applicable, and all other amounts due with respect to the DOE Guaranteed Loan and (ii) any payments on Qualified Hedging Contracts, including any swap premium or swap termination payment, or Reimbursement Obligations, relating to Non-PPA Bonds or the DOE Guaranteed Loan from time to time outstanding as the same shall become due; provided, however, that Debt Service shall not include any acceleration of the maturity of the Non-PPA Bonds or the DOE Guaranteed Loan.

"Development Agreement" shall mean the Plant Vogtle Owners' Agreement Authorizing Development, Construction, Licensing and Operation of Additional Generating Units dated as of May 13, 2005, as heretofore amended and as it may, from time to time hereafter, be further amended.

"DOE" shall mean the United States Department of Energy, as guarantor of the DOE Guaranteed Loan, and any successor in that capacity.

“DOE Accounts Agreement” shall mean the Collateral Agency and Accounts Agreement to be entered into among DOE, the DOE Collateral Agent and the Non-PPA Project Entity, as it may, from time to time, be amended.

“DOE Collateral Agent” shall mean PNC Bank, National Association, doing business as Midland Loan Services, a division of PNC Bank, National Association, or any successor thereto, in its capacity as Collateral Agent for DOE under the DOE Accounts Agreement.

“DOE Guaranteed Loan” shall have the meaning given to such term in the recitals hereto.

“DOE Loan Documents” shall have the meaning assigned to the term “Loan Documents” in the DOE Loan Guarantee Agreement.

“DOE Loan Guarantee Agreement” shall mean the Loan Guarantee Agreement to be entered into between the Non-PPA Project Entity and DOE, as it may, from time to time, be amended.

“DOE Secured Obligations” shall have the meaning assigned to the term “Secured Obligations” in the DOE Loan Guarantee Agreement.

“DOE Secured Parties” shall mean DOE and the DOE Collateral Agent and the Other Lenders, as their respective interests may appear.

“Effective Date” shall have the meaning assigned to such term in Section 101 hereof.

“Engineering, Procurement and Construction Agreement” means the Engineering, Procurement and Construction Agreement between Georgia Power Company, for itself and as Agent for Oglethorpe Power Corporation, the Authority and the City of Dalton,

Georgia, acting by and through its Board of Water, Light and Sinking Fund Commissioners, as Owners, and a consortium consisting of Westinghouse Electric Company LLC and Stone & Webster, Inc., as Contractor for Units 3 and 4 at the Vogtle Electrical Generating Plant Site in Waynesboro, Georgia, dated as of April 8, 2008, as heretofore amended and as it may, from time to time hereafter, be further amended.

“Execution Date” shall have the meaning assigned to such term in the preamble to this Contract.

“Federal Financing Bank” or “FFB” shall mean the Federal Financing Bank, a body corporate and instrumentality of the United States of America.

“Financing Costs” shall mean all financing costs related to the Plant Vogtle Additional Units Non-PPA Project that may be financed from the proceeds of Non-PPA Bonds or the DOE Guaranteed Loan, including, but without limitation, the following:

- (i) costs of issuance, including, without limitation, underwriting fees, bank commitment and letter of credit fees, legal and financial advisory fees, bond insurance and indemnity fees, and any payments on Qualified Hedging Contracts including, without limitation, (a) any periodic “net” payments accruing in whole or in part prior to and during construction and for such additional period as the Authority may reasonably determine to be necessary in connection with the placing of the Non-PPA Project Entity’s Ownership Interest in operation and (b) any swap premium or swap termination payment;
- (ii) interest accruing in whole or in part on Non-PPA Bonds or the DOE Guaranteed Loan prior to and during construction (or, in the case

of Non-PPA Bonds issued or Advances made to finance Fuel, interest accruing in whole or in part on such Non-PPA Bonds or such Advances prior to the loading of such Fuel in the reactor) and for such additional period as the Authority may reasonably determine to be necessary in connection with the placing of the Non-PPA Project Entity's Ownership Interest in operation in accordance with the provisions of the Non-PPA Bond Resolution, including, without limitation, any major renewals, replacements, repairs, additions, betterments or improvements or modifications with respect to the Non-PPA Project Entity's Ownership Interest;

(iii) the deposit or deposits from the proceeds of Non-PPA Bonds issued, or Advances made, to finance such costs in any fund or account established pursuant to the Non-PPA Bond Resolution or the DOE Loan Documents to meet Debt Service reserve requirements for Non-PPA Bonds or the DOE Guaranteed Loan, or replenishment of such funds if drawn down; and

(iv) any other fees, costs and expenses of financing for the Non-PPA Bonds or the DOE Guaranteed Loan.

"Fixed Costs" shall mean, with respect to any period, all fixed costs related to the Plant Vogtle Additional Units Non-PPA Project attributed to such period, as defined by and provided in Section 305(b)(1) of this Contract.

"Fuel" shall mean the nuclear materials required for the operation of the Additional Units, including the initial nuclear fuel cores.

“Fuel Costs” shall mean all costs incurred by the Authority or the Non-PPA Project Entity during any Power Supply Year that are allocable to the acquisition, processing, design, fabrication, transportation, delivering, reprocessing, storage and disposal of Fuel for the Non-PPA Project Entity’s Ownership Interest, including, without limitation, hedging transactions entered into in connection therewith, the initial nuclear fuel cores, and further including prepayments of such costs or transfers to reserves established for such costs related to future Power Supply Years, less appropriate credits related to such costs, and including, without limitation, those portions of administrative and general expenses incurred by the Authority and the Non-PPA Project Entity that are properly and reasonably allocable to acquisition and management of Fuel for the Non-PPA Project Entity’s Ownership Interest, and, to the extent that any such costs have been paid for through proceeds of Non-PPA Bonds or Advances or replenishments from billings, the amount of such costs that are amortized during the Power Supply Year.

“Nominally Rated” means the net electrical unit output, as measured on the high voltage side of the main step-up transformer, guaranteed by the contractor under the Engineering, Procurement and Construction Agreement.

“Non-PPA BANs” shall mean any Non-PPA Bonds issued by the Authority as permitted by the provisions of the Non-PPA Bond Resolution to finance or refinance the Costs of Acquisition and Construction and Financing Costs of the Plant Vogtle Additional Units Non-PPA Project on an interim basis prior to (a) the issuance of other Non-PPA Bonds or (b) the making of Advances under the DOE Guaranteed Loan, which Non-PPA BANs shall be issued in the form of notes the principal of which is intended to, and all or a portion of the interest on which may, be paid from either (x) the proceeds of

other Non-PPA Bonds (including other Non-PPA BANs), including any notes issued to secure borrowing arrangements or (y) Advances under the DOE Guaranteed Loan.

“Non-PPA Bond Resolution” shall mean the Plant Vogtle Additional Units Non-PPA Project Bond Resolution adopted by the Authority and accepted by the Trustee thereunder for the benefit of the owners of the Non-PPA Bonds that provides for the issuance of such Non-PPA Bonds, as the same is proposed to be amended and restated by the Second Amended and Restated Plant Vogtle Additional Units Non-PPA Project Bond Resolution to be adopted by the Authority (the “Second Amended and Restated Non-PPA Project Bond Resolution”), as it may be supplemented or amended from time to time, a copy of which Second Amended and Restated Non-PPA Bond Resolution in substantially the form which will be presented to the Authority’s Board for its approval has been provided to the Additional Units Non-PPA Participant. The Non-PPA Bond Resolution shall not modify or alter the rights or obligations of the Additional Units Non-PPA Participant under this Contract unless consented to by the Additional Units Non-PPA Participant.

“Non-PPA Bonds” shall mean the bonds, notes or other evidences of indebtedness issued by the Authority pursuant to or as permitted by the provisions of the Non-PPA Bond Resolution to finance or refinance the Costs of Acquisition and Construction and Financing Costs of the Plant Vogtle Additional Units Non-PPA Project, whether or not any issue of such Non-PPA Bonds, notes or other evidences of indebtedness shall be subordinated as to payment to any other issue of such Non-PPA Bonds, and shall include refunding Non-PPA Bonds issued pursuant to the provisions of Section 402 hereof.

“Non-PPA Project Entity” shall mean MEAG Power SPVM LLC, a limited liability company organized under the laws of the State of Georgia formed by the Authority for the sole purpose of owning and operating the Non-PPA Project Entity’s Ownership Interest in the Additional Units and that is a wholly-owned, direct subsidiary of the Authority.

“Non-PPA Project Entity Power Purchase Agreement” means the Wholesale Power Sales Agreement, to be entered into between the Non-PPA Project Entity, as seller, and the Authority, as buyer.

“Non-PPA Project Entity’s Ownership Interest” shall mean a percentage of the Authority’s Interest in the Additional Units in an amount equal to the Non-PPA Project Portion, which, upon the Effective Date, will be transferred to the Non-PPA Project Entity and which equals 7.6886571 percent of the output and services of the Additional Units.

“Non-PPA Project Portion” shall mean 33.870736 percent of the Authority’s Interest, which interest shall consist of 169.458 MWs of the output of the Additional Units, based upon the nominal ratings of the Additional Units.

“Nuclear Managing Board Agreement” shall mean the Second Amended and Restated Nuclear Managing Board Agreement dated as of April 21, 2006, as heretofore amended and as it may, from time to time hereafter, be further amended or supplemented.

“Operating Agreement” shall mean the Plant Alvin W. Vogtle Nuclear Units Amended and Restated Operating Agreement dated April 21, 2006, as heretofore amended and as it may, from time to time hereafter, be further amended or supplemented.

“Original Contract” shall have the meaning set forth in the recitals hereto.



“Other Costs” shall mean, with respect to any period, all costs other than Fixed Costs, related to the Plant Vogtle Additional Units Non-PPA Project attributed to such period, as defined by and provided in Section 305(b)(2) of this Contract.

“Other Lender” shall mean any third-party lender (other than FFB) or any trustee acting on behalf of such lender whose loan to the Non-PPA Project Entity shall be guaranteed in whole or in part by DOE pursuant to the DOE Loan Guarantee Agreement.

“Ownership Agreement” shall mean the Plant Alvin W. Vogtle Additional Units Ownership Participation Agreement dated as of April 21, 2006, as heretofore amended and as it may, from time to time hereafter, be further amended or supplemented.

“Participant” shall mean any political subdivision of the State of Georgia which is authorized by Section 46-3-130 of the Act to make contracts for the payment of such rates, tolls, fees and charges as may be prescribed by the Authority for the use of services and facilities of the projects and which has entered into such contracts.

“Plant Vogtle Additional Units Non-PPA Obligation Share” or “Obligation Share” shall mean, with respect to an Additional Units Non-PPA Participant, the percentage set forth in Attachment B hereto for such Additional Units Non-PPA Participant representing both (i) such Additional Units Non-PPA Participant’s percentage share of the output and services of the Non-PPA Project Entity’s Ownership Interest which it is entitled to receive in accordance with Section 302 of its Contract, and (ii) the percentage of the Plant Vogtle Additional Units Non-PPA Project Annual Costs that the Additional Units Non-PPA Participant is obligated to pay in accordance with Section 302 of its Contract.

“Plant Vogtle Additional Units Non-PPA Project” or “Non-PPA Project” shall mean: (1) all of the Authority’s right, title and interest (whether direct or indirect) in and to the output and services of the Non-PPA Project Entity’s Ownership Interest, such right, title and interest of the Authority being available to the Authority pursuant to the Non-PPA Project Entity Power Purchase Agreement, and (2) working capital for the Non-PPA Project Portion required by the Authority or the Non-PPA Project Entity during construction of the Additional Units and for the placing of the Additional Units in operation, and working capital for the Non-PPA Project Portion for operation of the Additional Units. The Non-PPA Project is referred to sometimes as “Project M.”

“Plant Vogtle Additional Units Non-PPA Project Annual Budget” shall mean, with respect to a Power Supply Year, the budget or amended budget adopted by the Authority pursuant to Section 201 hereof, which budget shall contain itemized estimates of the Plant Vogtle Additional Units Non-PPA Project Annual Costs and all revenues, income or other funds to be applied to such Plant Vogtle Additional Units Non-PPA Project Annual Costs and shall separately show the Debt Service costs relating to the Plant Vogtle Additional Units Non-PPA Project and shall include separately such itemized estimates for Fixed Costs and for Other Costs.

“Plant Vogtle Additional Units Non-PPA Project Annual Costs” shall mean, with respect to a Power Supply Year, to the extent not paid as a part of the Costs of Acquisition and Construction, all costs and expenses of the Authority or the Non-PPA Project Entity paid by the Authority or the Non-PPA Project Entity during such Power Supply Year allocable to the Plant Vogtle Additional Units Non-PPA Project, which costs and expenses shall include those items of cost and expense referred to in Section

305(b) hereof as the Plant Vogtle Additional Units Non-PPA Project Annual Fixed Costs and Plant Vogtle Additional Units Non-PPA Project Other Annual Costs.

“Plant Vogtle Additional Units Non-PPA Project Billing Statement” shall mean the written statement prepared or caused to be prepared monthly by the Authority that shall be based upon the Plant Vogtle Additional Units Non-PPA Project Annual Budget or upon the amended Plant Vogtle Additional Units Non-PPA Project Annual Budget, which shall show the monthly amount to be paid to the Authority by the Additional Units Non-PPA Participant under this Contract.

“Plant Vogtle Additional Units PPA Project” or “PPA Project” shall mean: (1) a percentage of the Authority’s Interest in an amount equal to the PPA Project Portion thereof; and (2) working capital for the PPA Project Portion required by the Authority during construction of the Additional Units and for the placing of the Additional Units in operation, and working capital for the PPA Project Portion for operation of the Additional Units; provided, however, that in the event that the amendment and restatement of the Plant Vogtle Additional Units PPA Project Bond Resolution provided for in the Second Amended and Restated Plant Vogtle Additional Units PPA Project Bond Resolution to be adopted by the Authority shall become effective, then “Plant Vogtle Additional Units PPA Project” or “PPA Project” shall mean (i) all of the Authority’s right, title and interest (whether direct or indirect) in and to the output and services of such percentage undivided ownership interest in the Authority’s Interest, and (ii) working capital for the PPA Project Portion required by the Authority or the PPA Project Entity during construction of the Additional Units and for the placing of the Additional Units in operation, and working

capital for the PPA Project Portion for operation of the Additional Units. The PPA Project is referred to sometimes as “Project J.”

“Plant Vogtle Additional Units PPA-2 Project” or “PPA-2 Project” shall mean: (1) a percentage of the Authority’s Interest in an amount equal to the PPA-2 Project Portion thereof and (2) working capital for the PPA-2 Project Portion required by the Authority during construction of the Additional Units and for the placing of the Additional Units in operation, and working capital for the PPA-2 Project Portion for operation of the Additional Units; provided, however, that in the event that the amendment and restatement of the Plant Vogtle Additional Units PPA-2 Project Bond Resolution provided for in the Second Amended and Restated Plant Vogtle Additional Units PPA-2 Project Bond Resolution to be adopted by the Authority shall become effective, then “Plant Vogtle Additional Units PPA-2 Project” or “PPA-2 Project” shall mean (i) all of the Authority’s right, title and interest (whether direct or indirect) in and to the output and services of such percentage undivided ownership interest in the Authority’s Interest, and (ii) working capital for the PPA-2 Project Portion required by the Authority or the PPA-2 Project Entity during construction of the Additional Units and for the placing of the Additional Units in operation, and working capital for the PPA-2 Project Portion for operation of the Additional Units. The PPA-2 Project is referred to sometimes as “Project P.”

“Power Supply Year” shall mean the calendar year, except that the first Power Supply Year shall begin on the earliest of (i) the date an Additional Unit is first declared to be in Commercial Operation, (ii) the date to which all interest is capitalized on Non-PPA Bonds and the DOE Guaranteed Loan, (iii) the earlier of the date (x) which is twelve

(12) months prior to the date on which the first annual principal installment on any of the Non-PPA Bonds is due and (y) which is such number of months prior to the date on which the first principal installment on the DOE Guaranteed Loan is due as corresponds to the frequency with which periodic principal payments on the DOE Guaranteed Loan are due (*i.e.*, three (3) months if such principal is payable quarterly, six (6) months if such principal is payable semi-annually or twelve (12) months if such principal is payable annually); or (iv) the date on which any Plant Vogtle Additional Units Non-PPA Project Annual Costs become payable.

“PPA Project Entity” shall mean MEAG Power SPVJ LLC, a limited liability company organized under the laws of the State of Georgia formed by the Authority for the sole purpose of owning and operating the PPA Project Portion of the Additional Units and that is a wholly-owned, direct subsidiary of the Authority.

“PPA Project Portion” shall mean 41.174636 percent of the Authority’s Interest, which interest shall consist of 206.000 MWs of the output of the Additional Units, based upon the nominal ratings of the Additional Units.

“PPA-2 Project Entity” shall mean MEAG Power SPVP LLC, a limited liability company organized under the laws of the State of Georgia formed by the Authority for the sole purpose of owning and operating the PPA-2 Project Portion of the Additional Units and that is a wholly-owned, direct subsidiary of the Authority.

“PPA-2 Project Portion” shall mean 24.954628 percent of the Authority’s Interest, which interest shall consist of 124.850 MWs of the output of the Additional Units, based upon the nominal ratings of the Additional Units.

“Project Agreements” shall collectively mean the Development Agreement, the Nuclear Managing Board Agreement, the Operating Agreement, and the Ownership Agreement.

“Prudent Utility Practice” at a particular time shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry prior to such time, or any of the practices, methods and acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts having due regard for manufacturers’ warranties and the requirements of governmental agencies of competent jurisdiction. In evaluating whether any act or proposal conforms to Prudent Utility Practice, the parties shall take into account the objective to achieve optimum utilization of the Authority’s resources.

“Qualified Hedging Contract” has the meaning set forth in the Non-PPA Bond Resolution.

“Reimbursement Obligation” has the meaning set forth in the Non-PPA Bond Resolution.

“Uncontrollable Forces” means any cause beyond the control of the Authority or the Non-PPA Project Entity, as applicable, which by the exercise of due diligence the Authority or the Non-PPA Project Entity, as applicable, is unable to prevent or overcome, including but not limited to, failure or refusal of any other person or entity to comply

with then existing contracts with the Authority or the Non-PPA Project Entity, as applicable, or with an Additional Units Non-PPA Participant, an act of God, fire, flood, explosion, strike, sabotage, pestilence, an act of the public enemy, civil or military authority including court orders, injunctions, and orders of governmental agencies with proper jurisdiction, insurrection or riot, an act of the elements, failure of equipment, or inability of the Authority or the Non-PPA Project Entity, as applicable, or any contractors engaged in work on the Plant Vogtle Additional Units Non-PPA Project to obtain or ship materials or equipment because of the effect of similar causes on suppliers or carriers, or inability of the Authority to sell or issue its Non-PPA Bonds or notes or of the Non-PPA Project Entity to make or receive Advances.

“Uniform System of Accounts” means the Uniform System of Accounts prescribed for Public Utilities and Licensees subject to the provisions of the Federal Power Act.

Capitalized terms not specifically defined herein or in a referenced document shall have their normal meanings in the context in which they are used.

## **ARTICLE II CERTAIN OBLIGATIONS OF THE AUTHORITY AND THE ADDITIONAL UNITS NON-PPA PARTICIPANT**

### **SECTION 201. THE PLANT VOGTLE ADDITIONAL UNITS NON-PPA PROJECT ANNUAL BUDGET.**

The Authority shall prepare and submit to the Additional Units Non-PPA Participant a Plant Vogtle Additional Units Non-PPA Project Annual Budget at least ninety (90) days prior to the beginning of each Power Supply Year. Such budget shall show separately (i) the Plant Vogtle Additional Units Non-PPA Project Annual Fixed Costs, and (ii) the Plant Vogtle Additional Units Non-PPA Project Other Annual Costs.

The Additional Units Non-PPA Participant may then submit to the Authority, at any time until such budget is adopted, any matters or suggestions relating to such Budget that the Additional Units Non-PPA Participant may care to present and the Authority shall give due consideration to said matters or suggestions. The Authority shall then proceed with the consideration and adoption of such Plant Vogtle Additional Units Non-PPA Project Annual Budget not less than thirty (30) nor more than forty-five (45) days prior to the beginning of such Power Supply Year, and shall cause copies of such adopted Plant Vogtle Additional Units Non-PPA Project Annual Budget to be delivered to the Additional Units Non-PPA Participant; provided, however, that the Plant Vogtle Additional Units Non-PPA Project Annual Budget for the first Power Supply Year shall be prepared, considered, adopted and delivered in the most practicable manner available in the discretion of the Authority. As required from time to time during any Power Supply Year after thirty (30) days' notice to the Additional Units Non-PPA Participant, the Authority may adopt an amended Plant Vogtle Additional Units Non-PPA Project Annual Budget for and applicable to such Power Supply Year for the remainder of such Power Supply Year.

## **SECTION 202. REPORTS.**

The Authority will prepare and issue to the Additional Units Non-PPA Participant the following reports during the Power Supply Year:

- (1) Financial and operating statement relating to the Plant Vogtle Additional Units Non-PPA Project on a quarterly basis;
- (2) Status of the Plant Vogtle Additional Units Non-PPA Project Annual Budget on a monthly basis commencing as of the date that



the Authority first submits a Plant Vogtle Additional Units Non-PPA Project Billing Statement to the Additional Units Non-PPA Participant pursuant to Section 306 hereof;

(3) Status of the construction budget of the Plant Vogtle Additional Units Non-PPA Project during construction on the same basis that such reports are received by the Authority or the Non-PPA Project Entity; and

(4) Analysis of operations relating to the Plant Vogtle Additional Units Non-PPA Project on a monthly basis commencing as of the date that the Authority first submits a Plant Vogtle Additional Units Non-PPA Project Billing Statement to the Additional Units Non-PPA Participant pursuant to Section 306 hereof on the same basis that such reports are received by the Authority or the Non-PPA Project Entity.

### **SECTION 203. RECORDS AND ACCOUNTS.**

The Authority will keep, and will cause the Non-PPA Project Entity to keep, accurate records and accounts of the facilities comprising the Non-PPA Project Entity's Ownership Interest and of the operations of the Non-PPA Project Entity's Ownership Interest in accordance with the Uniform System of Accounts. Said accounts shall be subject to the Authority's annual audit by a firm of independent certified public accountants experienced in electric utility accounting and of national reputation to be submitted to the Authority within one hundred and fifty (150) days after the close of each Power Supply Year. All transactions of the Authority and the Non-PPA Project Entity relating to the Plant Vogtle Additional Units Non-PPA Project with respect to each

Power Supply Year shall be subject to such an audit. A copy of the Authority's annual audit shall be provided to each Additional Units Non-PPA Participant.

**SECTION 204. ADJUSTMENT OF BILLING.**

(a) At the end of each Power Supply Year, the Authority shall determine if the aggregate amount paid by the Additional Units Non-PPA Participant under this Contract to provide recovery of all the Authority's Plant Vogtle Additional Units Non-PPA Project Annual Fixed Costs and Plant Vogtle Additional Units Non-PPA Project Other Annual Costs during such Power Supply Year was in the proper amount. Upon making such determination, any amount found to have been paid by the Additional Units Non-PPA Participant in excess of the amount that should have been paid by the Additional Units Non-PPA Participant shall, at the election of the Authority, either be paid to the Additional Units Non-PPA Participant, or credited on the Plant Vogtle Additional Units Non-PPA Project Billing Statements to the Additional Units Non-PPA Participant for the remaining month or months of the Power Supply Year next succeeding the Power Supply Year for which such adjustment was determined to have been necessary. The Additional Units Non-PPA Participant must be fully compensated for any over recovery by the end of such next succeeding Power Supply Year either as the result of credits, payments or a combination thereof. The amount of any deficiencies shall be added to the Plant Vogtle Additional Units Non-PPA Project Billing Statements in equal installments over the remaining month or months of the Power Supply Year next succeeding the Power Supply Year for which such adjustment was determined to be necessary. In the event that the failure of an Additional Units Non-PPA Participant to pay any amounts due under its Contract shall have resulted in the application of amounts in any reserve or working fund

to the payment of costs payable from such reserve or working fund and the other Additional Units Non-PPA Participants shall have made up the deficiency created by such application or paid additional amounts into such reserve or working fund, amounts, including interest, thereafter paid to the Authority by such non-paying Additional Units Non-PPA Participant for application to such past due payments shall be credited on the Plant Vogtle Additional Units Non-PPA Project Billing Statements of such other Additional Units Non-PPA Participants in the next month or months as shall be appropriate.

(b) At its election, the Authority may establish a policy for making monthly, quarterly or semi-annual retroactive adjustments to the Additional Units Non-PPA Participant's billings to account for variances between the billed amounts and the actual costs incurred during the respective period in order to avoid large cumulative adjustments at the end of the Power Supply Year under subsection (a) above. Such intra-year adjustments are not to be used to avoid a budget amendment when there are material changes affecting the remaining months of the Power Supply Year.

(c) The Authority shall have the discretion, subject to the concurrence of a sufficient number of Additional Units Non-PPA Participants whose total Obligation Shares in the Non-PPA Project exceed 66 2/3 percent, to apply any excess amount (as described in subpart (a) hereof), or portion thereof, for the purpose (i) of purchasing, redeeming or defeasing Non-PPA Bonds in advance of maturity or (ii) of retiring by prepayment Advances, in each such case, in such manner as the Authority may determine, and in such event the Authority will reduce such elements of the Plant Vogtle

Additional Units Non-PPA Project Annual Costs as are necessary and appropriate to reflect such accelerated retirement.

**SECTION 205. DISPUTED MONTHLY PLANT VOGTLE ADDITIONAL UNITS NON-PPA PROJECT BILLING STATEMENT.**

In case any portion of any monthly Plant Vogtle Additional Units Non-PPA Project Billing Statement received by the Additional Units Non-PPA Participant from the Authority shall be in bona fide dispute, the Additional Units Non-PPA Participant shall pay the Authority the full amount of such Billing Statement. Upon determination of the correct amount, the difference between such correct amount and such full amount, if any, will be credited to the Additional Units Non-PPA Participant by the Authority after such determination. In the event such Billing Statement is in dispute, the Authority shall exercise due diligence in considering such dispute and will advise the Additional Units Non-PPA Participant with regard to the Authority's position relative thereto within thirty (30) days following written notification by the Additional Units Non-PPA Participant of such dispute.

**SECTION 206. RESALE COVENANT.**

So long as the Authority has tax exempt Non-PPA Bonds or Build America Bonds outstanding, the Additional Units Non-PPA Participant agrees that it shall not, without the express written consent of the Authority, enter into any contract pursuant to which a non-exempt person agrees to purchase power produced by the Plant Vogtle Additional Units Non-PPA Project in a manner that results in private business use within the meaning of the Internal Revenue Code of 1986, as amended, modified or re-enacted (or any successor thereto) (the "Code"). For purposes of the preceding sentence, "non-

exempt person” shall mean any entity that is not a state, territory or possession of the United States, the District of Columbia or any political subdivision thereof.

**SECTION 207. TAX COVENANT.**

The Additional Units Non-PPA Participant hereby covenants that it shall take no action, nor shall it consent to or approve the taking of any action, that would in the opinion of the Authority adversely affect (a) the exclusion from gross income for federal income tax purposes of the interest on the Non-PPA Bonds of any series the interest on which is intended to be so excluded or (b) the eligibility of the Authority to receive cash subsidy payments from the United States Treasury equal to a portion of the interest payable on any Build America Bonds. In furtherance thereof, the Additional Units Non-PPA Participant shall provide information reasonably requested by the Authority regarding compliance with the Code, including providing an appropriate certification that it has complied fully with the provisions of this tax covenant.

**ARTICLE III  
ELECTRIC POWER AND ENERGY FROM THE  
NON-PPA PROJECT ENTITY’S OWNERSHIP INTEREST**

**SECTION 301. OWNERSHIP AND OPERATION OF THE NON-PPA PROJECT ENTITY’S OWNERSHIP INTEREST.**

The Non-PPA Project Entity will acquire and own, and the Authority will issue Non-PPA Bonds in series from time to time under or in accordance with the Non-PPA Bond Resolution or cause the Non-PPA Project Entity to receive Advances to finance, the Non-PPA Project Entity’s Ownership Interest, and the Authority shall cause the Non-PPA Project Entity to operate, maintain, and manage the facilities of the Non-PPA Project Entity’s Ownership Interest in accordance with Prudent Utility Practice. The

Authority may also, at its discretion, enter into Qualified Hedging Contracts relating to such Non-PPA Bonds and Advances or other appropriate transactions.

Except as provided in the following sentence, this Contract and the other Contracts, on the one hand, and the Non-PPA Project Entity Power Purchase Agreement, on the other hand, are intended to be “back-to-back” power purchase agreements during the term of this Contract and such other Contracts such that all of the output and services of the Plant Vogtle Additional Units Non-PPA Project shall be purchased by the Authority from the Non-PPA Project Entity pursuant to the Non-PPA Project Entity Power Purchase Agreement and resold to the Additional Units Non-PPA Participant and the other Additional Units Non-PPA Participants pursuant to the terms and conditions of the Contracts, and all Costs of Acquisition and Construction, Financing Costs, Plant Vogtle Additional Units Non-PPA Project Annual Costs and all other costs, fees, charges and amounts incurred by the Non-PPA Project Entity in connection with the Plant Vogtle Additional Units Non-PPA Project and billed to the Authority pursuant to the Non-PPA Project Entity Power Purchase Agreement shall be the obligation of the Additional Units Non-PPA Participants during the term of the Contracts. Notwithstanding the foregoing, it is the current intention of the Authority that, following the repayment in full of the DOE Guaranteed Loan, including the payment of all interest, fees, charges, expenses and all other amounts from time to time due under or in connection therewith, and the satisfaction by the Non-PPA Project Entity of all of its obligations under the DOE Loan Guarantee Agreement and all other DOE Loan Documents and the termination of all lending commitments thereunder, the Authority will, subject to the occurrence of each of the conditions set forth in subsection 3 of Section 1101 of the Non-PPA Bond Resolution,

reacquire from the Non-PPA Project Entity the Non-PPA Project Entity's Ownership Interest. In that event, upon written notice from DOE to the Authority confirming the repayment in full of the DOE Guaranteed Loan as aforesaid and the satisfaction by the Non-PPA Project Entity of all of its obligations under the DOE Loan Guarantee Agreement and all other DOE Loan Documents and the termination of all lending commitments thereunder, (a) the terms and provisions of this Contract relating to the DOE Guaranteed Loan shall, without further act, cease to be of any force or effect, (b) the Non-PPA Project Entity Power Purchase Agreement shall be terminated and (c) the Authority and the Additional Units Non-PPA Participant agree to amend this Contract in such manner as shall be determined by the Authority to be necessary or desirable in order to reflect the foregoing transactions, including, without limitation, an amendment to the definition of "Plant Vogtle Additional Units Non-PPA Project" set forth in Section 103 hereof in order to reflect the transfer to the Authority of the Non-PPA Project Entity's Ownership Interest and the termination of the Non-PPA Project Entity Power Purchase Agreement.

The Authority will cause to be delivered to the Additional Units Non-PPA Participant in accordance with Section 302 hereof such of its Obligation Share of the output and services of the Non-PPA Project Entity's Ownership Interest as the Additional Units Non-PPA Participant requires in order to serve the requirements of its electric distribution system during periods when such facilities are operating, unless the Authority determines in accordance with this Section 301 that it is more economical to supply such amounts from other sources.

The Authority covenants and agrees that it will operate, maintain and manage the Non-PPA Project or cause the same to be operated, maintained and managed to attempt to achieve the best operating economics therefor in accordance with Prudent Utility Practice, and may sell such of the output to others as it determines, based upon such economic determination and consistent with Prudent Utility Practice.

In addition, the Authority may utilize its rights to such output and services to enter into transactions with others in accordance with Prudent Utility Practice, when such transactions are reasonably expected to result in economic benefits to the Additional Units Non-PPA Participants, including, but not limited to, (i) capacity sales and swaps, (ii) energy sales and swaps, and (iii) financial swaps, hedges and risk management contracts and (iv) reliability exchanges with other utilities.

The Additional Units Non-PPA Participant shall receive a credit from the Authority of its Obligation Share of the proceeds of all such transactions as provided in Section 307(c) hereof.

**SECTION 302. ADDITIONAL UNITS NON-PPA PARTICIPANT'S PAYMENT OBLIGATIONS AND ENTITLEMENT.**

(a) The Additional Units Non-PPA Participant is entitled to receive its Obligation Share of the output and services of the Non-PPA Project Entity's Ownership Interest during the entirety of the term of this Contract.

(b) The Additional Units Non-PPA Participant shall be liable for paying its Obligation Share of the Plant Vogtle Additional Units Non-PPA Project Annual Costs during the entirety of the term of this Contract.



### **SECTION 303. INTERCONNECTION ARRANGEMENTS.**

(a) Capacity and energy supplied to the Additional Units Non-PPA Participant under this Contract shall constitute a supplemental resource for the Additional Units Non-PPA Participant's electric distribution system, and the Authority waives any further notice from the Additional Units Non-PPA Participant with respect to the acquisition of this supplemental resource.

(b) The Authority will purchase or provide generating capacity reserve service (if required), transmission service, maintenance service, emergency service, and other interchange service or ancillary service associated with the Non-PPA Project Entity's Ownership Interest as may be necessary for the reliable and economical supply of the output and services of the Non-PPA Project Entity's Ownership Interest. The Authority may also contract for such operating reserves as it determines to be needed. The parties agree that no participant interchange agreement shall be required with respect to this resource since this resource shall be scheduled by the Authority.

### **SECTION 304. INSURANCE.**

The Authority shall maintain or cause to be maintained by the Non-PPA Project Entity or otherwise, as Costs of Acquisition and Construction or as Plant Vogtle Additional Units Non-PPA Project Annual Costs, such insurance with respect to the Non-PPA Project Entity's Ownership Interest as shall be available and as is usually carried by utilities constructing and operating nuclear generating facilities and such other insurance as is usually carried by electric utilities in conformity with Prudent Utility Practice. Any payments under such insurance with respect to the Plant Vogtle Additional Units Non-PPA Project (a) to the extent received by the Authority, shall be subject to the lien of the

Non-PPA Bond Resolution and (b) to the extent received by the Non-PPA Project Entity, shall be subject to the security interest and lien of the DOE Secured Parties described in Section 605 hereof and, in either such case, may be applied to rebuild or replace the applicable Additional Unit or to prepay the DOE Guaranteed Loan in accordance with the DOE Loan Documents prior to any distribution thereof by the Non-PPA Project Entity to the Authority.

**SECTION 305. COSTS OF THE PLANT VOGTLE ADDITIONAL UNITS NON-PPA PROJECT.**

(a) The Authority will determine all of the costs, exclusive of costs paid from the proceeds of Non-PPA Bonds or Advances, attributable to the Plant Vogtle Additional Units Non-PPA Project commencing with the first Power Supply Year, or such earlier time as the Authority shall determine, and such costs shall in the aggregate be equal to the Plant Vogtle Additional Units Non-PPA Project Annual Costs. The Authority is expressly authorized to bill some or all of the Debt Service costs which are payable during construction and prior to the Commercial Operation Date of any facility.

(b) The Plant Vogtle Additional Units Non-PPA Project Annual Costs for the generating and related facilities of the Non-PPA Project Entity's Ownership Interest shall include the following items of cost and expense:

(1) "Plant Vogtle Additional Units Non-PPA Project Annual Fixed Costs", which means all fixed costs allocable to the Plant Vogtle Additional Units Non-PPA Project incurred by the Authority or the Non-PPA Project Entity, including, but not limited to, and without duplication:

(A) Amounts that the Authority or the Non-PPA Project Entity is required to pay for taxes or payments in lieu thereof attributable to the Non-PPA

Project Entity's Ownership Interest and/or the Plant Vogtle Additional Units Non-PPA Project;

(B) Amounts required for renewals and replacements attributable to the Non-PPA Project Entity's Ownership Interest, or payment or deposit of such amounts into any reserve fund or account established for the Plant Vogtle Additional Units Non-PPA Project;

(C) Amounts to be set aside by the Authority or the Non-PPA Project Entity for the retirement from service or disposal of the facilities of the Non-PPA Project Entity's Ownership Interest;

(D) Amounts, if any, that must be paid by the Authority or the Non-PPA Project Entity for the purchase of generating capacity reserves for the Non-PPA Project Entity's Ownership Interest;

(E) Amounts that the Authority or the Non-PPA Project Entity is required under the Non-PPA Bond Resolution or the DOE Loan Documents to pay or deposit into any fund or account established by the Non-PPA Bond Resolution or the DOE Loan Documents for the payment of Debt Service on the Non-PPA Bonds or the DOE Guaranteed Loan, as applicable, and any reserve requirements for the Non-PPA Bonds or the DOE Guaranteed Loan, as applicable;

(F) Amounts (not otherwise included under any item of this Section 305(b)) for the Plant Vogtle Additional Units Non-PPA Project that the Authority or the Non-PPA Project Entity is required under the Non-PPA Bond Resolution or the DOE Loan Documents, as applicable, to pay or deposit during any Power Supply Year into any other fund or account established by the Non-PPA Bond Resolution or the DOE

Loan Documents, as applicable, or payment or deposit of such amounts into any such fund or account established outside the Non-PPA Bond Resolution or the DOE Loan Documents, as applicable;

(G) Amounts for payment or deposit into any fund or account outside the pledge of the Non-PPA Bond Resolution or the DOE Loan Documents attributable to costs or reserves of the Plant Vogtle Additional Units Non-PPA Project, including such amounts established by the Authority in the Plant Vogtle Additional Units Non-PPA Project Annual Budget to provide reasonable reserves for the payment of the Non-PPA Project Entity's share of costs required pursuant to either the Ownership Agreement or the Operating Agreement;

(H) Amounts for payment of Additional Costs (as that term is described and defined in Section 2.2 of the Development Agreement) incurred during any Power Supply Year and allocated to the Non-PPA Project Entity's Ownership Interest on the basis of the Non-PPA Project's percentage share of the Authority's Interest; and

(I) Without duplication, all fixed costs billed by the Non-PPA Project Entity to the Authority under the Non-PPA Project Entity Power Purchase Agreement other than such costs and expenses set forth in Section 305(b)(2) hereof.

(2) "Plant Vogtle Additional Units Non-PPA Project Other Annual Costs", which means all Plant Vogtle Additional Units Non-PPA Project Annual Costs other than the Plant Vogtle Additional Units Non-PPA Project Annual Fixed Costs incurred by the Authority or the Non-PPA Project Entity, including, but not limited to, and without duplication:

(A) All costs of producing and delivering electric power and energy from the Non-PPA Project Entity's Ownership Interest to the Additional Units Non-PPA Participants including, but not limited to, (i) Fuel Costs and other ordinary operation and maintenance costs and provisions for reserves therefor, administrative and general costs, insurance and overhead costs and any charges payable by the Authority or the Non-PPA Project Entity in connection with the output of the Plant Vogtle Additional Units Non-PPA Project, (ii) net costs of scheduled, emergency, economy or other interchange service as described in Section 303(b) hereof and incurred by the Authority or the Non-PPA Project Entity in connection with the Plant Vogtle Additional Units Non-PPA Project, (iii) working capital reasonably required for operation of the Plant Vogtle Additional Units Non-PPA Project, and (iv) a share, determined by the Authority to be allocable to the Plant Vogtle Additional Units Non-PPA Project, of all operation and maintenance costs related to the operation and conducting of the business of the Authority, including costs incurred in connection with reliability exchanges, salaries, fees for legal, engineering, and other services and all other expenses properly related to the conduct of the affairs of the Authority and all such costs incurred by the Non-PPA Project Entity;

(B) Amounts required to pay the costs of or to provide reserves for (i) extraordinary operating and maintenance costs including the costs of scheduled, emergency or other interchange service and the prevention or correction of any unusual loss or damage to keep the facilities of the Non-PPA Project Entity's Ownership Interest in good operating condition or to prevent a loss of revenues therefrom, (ii) any major renewals, replacements, repairs, additions, betterments and improvements necessary, in

the opinion of the Authority or the Non-PPA Project Entity, to keep the facilities of the Non-PPA Project Entity's Ownership Interest in good operating condition or to prevent a loss of revenues therefrom, and (iii) any major additions, improvements, repairs or modifications to any such facility, or any retirements or disposals of any such facility, required by any governmental agency having jurisdiction over the Additional Units or for which the Non-PPA Project Entity shall be responsible by virtue of any obligation of the Non-PPA Project Entity arising out of any contract to which the Non-PPA Project Entity may be a party relating to ownership of the Additional Units or any facility thereof to the extent that the Authority or the Non-PPA Project Entity is not reimbursed therefor from the proceeds of insurance or funds for such payments are not available to the Authority or the Non-PPA Project Entity therefor from any funds or accounts established by the Authority or by or on behalf of the Non-PPA Project Entity, or funds for such payment are not provided or to be provided by the issuance of Non-PPA Bonds pursuant to Article IV of this Contract; and

(C) Without duplication, all amounts other than fixed costs billed by the Non-PPA Project Entity to the Authority under the Non-PPA Project Entity Power Purchase Agreement.

**SECTION 306. BILLING STATEMENT; PAYMENT OBLIGATIONS.**

(a) The Authority shall bill the Additional Units Non-PPA Participant each month during each Power Supply Year, in advance, by providing the Additional Units Non-PPA Participant with a Plant Vogtle Additional Units Non-PPA Project Billing Statement for such month for the Additional Units Non-PPA Participant's Obligation Share of Plant Vogtle Additional Units Non-PPA Project Annual Costs as set forth in

Section 305 hereof. Such statement shall be paid by the Additional Units Non-PPA Participant on or before the 10<sup>th</sup> day from the date of such bill. Amounts due and not paid by the Additional Units Non-PPA Participant on or before said day shall bear an additional charge of one and one-half percent (1 ½%) per month for each month, or fraction thereof, until the amount due is paid in full. At the end of each Power Supply Year, adjustments of billing shall be made in accordance with Section 204 hereof.

(b) The Additional Units Non-PPA Participant shall pay its Obligation Share of Plant Vogtle Additional Units Non-PPA Project Annual Costs, whether or not the Non-PPA Project Entity's Ownership Interest is completed or is operating or operable, and whether or not its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and such payments shall not be subject to reduction, whether by offset or otherwise, and shall not be conditioned upon the performance or non-performance by any party of any agreement for any cause whatsoever. The Authority shall be obligated to pursue with reasonable diligence any valid claims against contracting parties as a result of any of the circumstances referenced in this subparagraph.

(c) The Additional Units Non-PPA Participant will establish, maintain and collect rates and charges for the electric service of its electric distribution system so as to provide revenues sufficient, together with available electric distribution system reserves, to enable the Additional Units Non-PPA Participant to pay to the Authority all amounts payable under this Contract, to pay all other amounts payable from and all lawful charges against or liens on the revenues of its electric distribution system, and to operate and maintain its electric distribution system in a sound, businesslike manner.

(d) The obligations of the Additional Units Non-PPA Participant to make the payments to the Authority under this Contract shall constitute general obligations of the Additional Units Non-PPA Participant for the payment of which the full faith and credit of the Additional Units Non-PPA Participant shall be and the same hereby is pledged to provide the funds required to fulfill all obligations arising under this Contract. Unless such payments or provisions for such payments shall have been made from the revenues of the electric system of the Additional Units Non-PPA Participant or from other funds thereof, the Additional Units Non-PPA Participant will annually in each and every fiscal year during the term of this Contract include in its general revenue or appropriation measure, whether or not any other items are included, sums sufficient to satisfy the payments required to be made in each year by this Contract until all payments required under this Contract have been paid in full. In the event for any reason any such provision or appropriation is not made for a fiscal year of the Additional Units Non-PPA Participant, then the chief fiscal officer of the Additional Units Non-PPA Participant shall, in accordance with the provisions of the Act in effect as of the Execution Date, set up as an appropriation on the accounts of the Additional Units Non-PPA Participant in each fiscal year the amounts required to pay the obligations called for under this Contract. The amount of the appropriation in such fiscal year to meet the obligations of this Contract shall be due and payable and shall be expended for the purpose of paying and meeting the obligations provided under the terms and conditions of this Contract, and such appropriation shall have the same legal status as if the Additional Units Non-PPA Participant had included the amount of the appropriation in its general revenue or appropriation measure.



(e) The Additional Units Non-PPA Participant hereby agrees that amounts payable by the Additional Units Non-PPA Participant under this Contract shall be paid by the Additional Units Non-PPA Participant as a cost of purchased power and energy for the Additional Units Non-PPA Participant's electric distribution system and otherwise as an expense of operation and maintenance thereof.

**SECTION 307. RATES AND CHARGES.**

(a) Fixed Costs. The Additional Units Non-PPA Participant shall pay its Obligation Share of the Fixed Costs for each month of each Power Supply Year as set forth in the Plant Vogtle Additional Units Non-PPA Project Annual Budget or amended Plant Vogtle Additional Units Non-PPA Annual Budget for the respective month and reflected in the monthly Plant Vogtle Additional Units Non-PPA Project Billing Statement for the respective month.

(b) Other Costs. The Additional Units Non-PPA Participant shall pay its Obligation Share of the Other Costs in advance for each month of each Power Supply Year as set forth in the Plant Vogtle Additional Units Non-PPA Project Annual Budget or amended Plant Vogtle Additional Units Non-PPA Project Annual Budget for the respective month and reflected in the monthly Plant Vogtle Additional Units Non-PPA Project Billing Statement for the respective month. In each monthly Plant Vogtle Additional Units Non-PPA Project Billing Statement the Authority may charge or credit the Additional Units Non-PPA Participant for any adjustment to the prior month's Plant Vogtle Additional Units Non-PPA Project Billing Statement required to reflect any other charge actually incurred during the respective prior month. The Other Costs may be

expressed and billed as a charge per kWh of output from the Additional Units, in the discretion of the Authority.

(c) Credits to Additional Units Non-PPA Participant's Billings. Amounts resulting from the sale or other transactions of output and services of the generating facilities of the Plant Vogtle Additional Units Non-PPA Project, except for transactions entered into pursuant to Section 309 hereof, shall be credited to the Additional Units Non-PPA Participant's obligations to pay Plant Vogtle Additional Units Non-PPA Project Annual Costs in the proportion of the Additional Units Non-PPA Participant's respective Plant Vogtle Additional Units Non-PPA Obligation Share of the output and services of the Non-PPA Project Entity's Ownership Interest. In the event that any such amounts remain uncredited as of the end of the next succeeding Power Supply Year, such uncredited amounts shall be paid to the Additional Units Non-PPA Participant within thirty (30) days thereafter.

**SECTION 308. PLEDGE OF PAYMENTS.**

All payments required to be made by the Additional Units Non-PPA Participant pursuant to this Contract attributable to the Plant Vogtle Additional Units Non-PPA Project or to the Plant Vogtle Additional Units Non-PPA Project Annual Costs, and any or all rights to collection or enforcement of such payments, may be pledged to secure the payment of the Authority's Non-PPA Bonds and the DOE Secured Obligations.

**SECTION 309. SALE OF EXCESS ADDITIONAL UNITS NON-PPA PARTICIPANT'S OBLIGATION SHARE.**

(a) In the event the Additional Units Non-PPA Participant determines that all or any portion of its Obligation Share of the output and services of the Non-PPA Project Entity's Ownership Interest is in excess of its needs, the Additional Units Non-PPA

Participant may request the Authority to sell and transfer for any period of time such excess output and services on terms and conditions proposed by the selling Additional Units Non-PPA Participant. Such excess shall first be offered to the non-selling Additional Units Non-PPA Participants on terms that may require, at the option of the selling party, that the excess may be purchased in its entirety on such stated terms and conditions. In the event the non-selling Additional Units Non-PPA Participants elect not to purchase the entire amount of such excess in accordance with the stated terms and conditions, the Authority may dispose of such excess by sale to other utilities on such stated terms and conditions.

(b) If all or any portion of such excess of the Additional Units Non-PPA Participant's Obligation Share of output and services is sold pursuant to this Section, the Additional Units Non-PPA Participant's Obligation Share shall not be reduced, and the Additional Units Non-PPA Participant shall remain liable to the Authority to pay the full amount of its Billing Statement as if such sale had not been made; except that such liability shall be discharged to the extent that the Authority shall receive payment for such excess output and services from the purchaser or purchasers thereof.

#### **ARTICLE IV BONDS AND DOE GUARANTEED LOAN**

##### **SECTION 401. ISSUANCE OF NON-PPA BONDS AND MAKING OF ADVANCES.**

(a) The Authority may sell and issue Non-PPA Bonds, and may cause the Non-PPA Project Entity to draw upon the DOE Guaranteed Loan in accordance with the provisions of the Non-PPA Bond Resolution and the DOE Loan Documents, respectively, at any time and from time to time to finance Costs of Acquisition and Construction and Financing Costs, including without limitation, the issuance of Non-PPA

Bonds to pay the costs of (i) any major renewals, replacements, repairs, additions, betterments, or improvements to the Non-PPA Project Entity's Ownership Interest necessary, in the opinion of the Authority or the Non-PPA Project Entity, to keep the Non-PPA Project Entity's Ownership Interest in good operating condition or to prevent a loss of revenues therefrom, including spent fuel storage facilities, (ii) any major additions, improvements, repairs, or modifications to the Non-PPA Project Entity's Ownership Interest or any retirements or disposals or decommissioning of the Non-PPA Project Entity's Ownership Interest required by any governmental agency having jurisdiction over the Plant Vogtle Additional Units Non-PPA Project or for which the Authority or the Non-PPA Project Entity shall be responsible by virtue of any obligation of the Authority or the Non-PPA Project Entity arising out of any contract to which the Authority or the Non-PPA Project Entity may be a party relating to ownership of the Non-PPA Project Entity's Ownership Interest or any facility thereof, or (iii) additional Fuel inventory for each facility of the Non-PPA Project Entity's Ownership Interest in any Power Supply Year to the extent that sufficient funds are not available in any reserves established by the Authority or the Non-PPA Project Entity for Fuel Costs; provided, however, that no such Non-PPA Bonds may be issued or Advances made for the purpose of adding additional generating units to the Plant Vogtle Additional Units Non-PPA Project.

(b) Any Non-PPA Bonds and the DOE Guaranteed Loan may be secured by assignment of all payments attributable to the Plant Vogtle Additional Units Non-PPA Project or the Plant Vogtle Additional Units Non-PPA Project Annual Costs to be made in accordance with or pursuant to the provisions of this Contract and all other Contracts,

as such payments may be increased and extended by reason of the issuance of such Non-PPA Bonds or the making of additional Advances, and such Non-PPA Bonds may be issued and such Advances may be made in amounts sufficient to pay the full amount of such costs and sufficient to provide such reserves as may be reasonably determined by the Authority or the Non-PPA Project Entity to be desirable.

**SECTION 402. ISSUANCE OF REFUNDING BONDS.**

In the event it shall be advantageous, in the opinion of the Authority, to refund any Non-PPA Bonds or prepay any portion of the principal of the DOE Guaranteed Loan, the Authority may issue and sell refunding Non-PPA Bonds which may be secured by assignment of all payments attributable to the Plant Vogtle Additional Units Non-PPA Project or the Plant Vogtle Additional Units Non-PPA Project Annual Costs to be made in accordance with or pursuant to the provisions of this Contract and all other Contracts.

**SECTION 403. ADJUSTMENT OF THE PLANT VOGTLE ADDITIONAL UNITS NON-PPA PROJECT ANNUAL COSTS.**

In the event the proceeds derived from the sale of any Non-PPA Bonds (including by reimbursement from the Non-PPA Project Entity to the Authority from proceeds of Advances) exceed the aggregate amount required for the purposes for which such Non-PPA Bonds were issued, the amount of such excess attributable to the issuance of Non-PPA Bonds shall be used to make up any deficiency then existing in any fund or account under the Non-PPA Bond Resolution in the manner therein provided, and any balance shall be used (a) to retire by purchase, redemption or defeasance Non-PPA Bonds in advance of maturity or (b) to retire by prepayment Advances in advance of maturity, in each such case, in such manner as the Authority may determine. In all such events, the Authority will reduce such elements of the Plant Vogtle Additional Units Non-PPA

Project Annual Costs as are necessary and appropriate to reflect such accelerated retirement.

## **ARTICLE V DEFAULT**

### **SECTION 501. EVENT OF DEFAULT.**

Failure of the Additional Units Non-PPA Participant to make to the Authority any of the payments for which provision is made in this Contract shall constitute a default on the part of the Additional Units Non-PPA Participant.

### **SECTION 502. CONTINUING OBLIGATION, RIGHT TO DISCONTINUE SERVICE.**

In the event of any such default, the Additional Units Non-PPA Participant shall not be relieved of its liability for payment of the amounts in default, and the Authority shall have the right and obligation to exercise its best efforts to recover from the Additional Units Non-PPA Participant any amount in default. In enforcement of any such right of recovery, the Authority may bring any suit, action, or proceeding in law or in equity, including, without limitation, mandamus and action for specific performance, as may be necessary or appropriate to enforce any covenant, agreement, or obligation to make payment for which provision is made in this Contract against the Additional Units Non-PPA Participant, and the Authority may, upon sixty (60) days' written notice to the Additional Units Non-PPA Participant, cease and discontinue providing service under this Contract. If the default continues for a period in excess of 180 days or if a non-defaulting Additional Units Non-PPA Participant exercises its right of first refusal to purchase a pro rata share of such defaulting Additional Units Non-PPA Participant's Obligation Share of the output and services of the Non-PPA Project Entity's Ownership Interest, whichever event first occurs, the Authority may, at its discretion, permanently

discontinue service to the defaulting Additional Units Non-PPA Participant. Additionally, the defaulting Additional Units Non-PPA Participant expressly waives any claim to interest payments recovered by the Authority pursuant to Section 306(a) hereof as the result of the default of said Additional Units Non-PPA Participant.

**SECTION 503. LEVY OF TAX FOR PAYMENT.**

In the event of such default by the Additional Units Non-PPA Participant, the Additional Units Non-PPA Participant shall provide for the assessment and collection of an annual tax sufficient to provide funds annually to make all payments due under the provisions of this Contract in each year over the remainder of the life of this Contract and the Authority shall have the right to bring any suit, action or proceeding in law or in equity, including, without limitation, mandamus and action for specific performance, to enforce the assessment and collection of a continuing direct annual tax upon all the taxable property within the boundaries of such Additional Units Non-PPA Participant sufficient in amount to provide such funds annually in each year of the remainder of the life of this Contract.

**SECTION 504. OTHER DEFAULT BY ADDITIONAL UNITS NON-PPA PARTICIPANT.**

In the event of a failure of the Additional Units Non-PPA Participant to establish, maintain, or collect rates or charges adequate to provide revenues sufficient to enable the Additional Units Non-PPA Participant to pay all amounts due to the Authority under this Contract, or in the event of any default by the Additional Units Non-PPA Participant under any other covenant, agreement or obligation of this Contract, the Authority may bring any suit, action, or proceeding in law or in equity, including, without limitation, mandamus, injunction and action for specific performance, as may be necessary or

appropriate to enforce any covenant, agreement or obligation of this Contract against the Additional Units Non-PPA Participant.

**SECTION 505. DEFAULT BY AUTHORITY.**

In the event of any default by the Authority under any covenant, agreement or obligation of this Contract, the Additional Units Non-PPA Participant may bring any suit, action, or proceeding in law or in equity, including, without limitation, mandamus, injunction and action for specific performance, as may be necessary or appropriate to enforce any covenant, agreement, or obligation of this Contract against the Authority.

**SECTION 506. ABANDONMENT OF REMEDY.**

In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceeding shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Authority and the Additional Units Non-PPA Participant shall continue as though no such proceedings had been taken.

**SECTION 507. DEFAULT OF OTHER ADDITIONAL UNITS NON-PPA PARTICIPANTS.**

(a) In the event of a default by an Additional Units Non-PPA Participant and discontinuance of service pursuant to Section 502 hereof or of the other Contracts to such defaulting Additional Units Non-PPA Participant, the Authority shall first offer to transfer to all other non-defaulting Additional Units Non-PPA Participants a pro rata portion (determined pursuant to the formula set forth in Section 508 hereof) of the defaulting Additional Units Non-PPA Participant's Obligation Share which shall have been discontinued by reason of such default. Any portion of such Obligation Share of a defaulting Additional Units Non-PPA Participant which shall be declined by any non-



defaulting Additional Units Non-PPA Participant shall be reoffered pro rata to the non-defaulting Additional Units Non-PPA Participants which have accepted in full the first such offer. Such reoffering shall be repeated until such defaulting Additional Units Non-PPA Participant's Obligation Share shall have been reallocated in full or until all non-defaulting Additional Units Non-PPA Participants shall have declined to take any additional portion of such defaulting Additional Units Non-PPA Participant's Obligation Share.

(b) In the event less than all of a defaulting Additional Units Non-PPA Participant's Obligation Share shall be accepted pursuant to subsection (a) of this Section by the non-defaulting Additional Units Non-PPA Participants, the Authority shall use its reasonable best efforts to sell the remaining portion of a defaulting Additional Units Non-PPA Participant's Obligation Share for the remaining term of such defaulting Additional Units Non-PPA Participant's Contract to any person, firm, association or corporation, public or private; provided, however, that the Authority shall make no such sales in such amounts, for such periods of time and under such terms and conditions as will adversely affect the tax exempt status of Non-PPA Bonds intended to be tax exempt. The agreement for such sale shall contain such terms and conditions as will not adversely affect the security for the Non-PPA Bonds and the DOE Secured Obligations afforded by the Contract of such defaulting Additional Units Non-PPA Participant, including provisions of the discontinuance of service upon default, and as are otherwise acceptable to the Authority. In the event of default and discontinuance of service under such agreement, the Obligation Share sold pursuant to such agreement shall be offered and

transferred as provided for defaulting Additional Units Non-PPA Participants in this Section.

(c) In the event that less than all of a defaulting Additional Units Non-PPA Participant's Obligation Share shall be accepted pursuant to subsection (a) of this Section by the non-defaulting Additional Units Non-PPA Participants or sold pursuant to subsection (b) of this Section, the Authority shall transfer, on a pro rata basis (based on the respective original Obligation Shares of the Additional Units Non-PPA Participants), to all other non-defaulting Additional Units Non-PPA Participants the remaining portion of such defaulting Additional Units Non-PPA Participant's Obligation Share, subject to the limitations specified in subsection (d) of this Section.

(d) Any portion of the Obligation Share of a defaulting Additional Units Non-PPA Participant transferred pursuant to this Section to a non-defaulting Additional Units Non-PPA Participant shall become a part of and shall be added to the Obligation Share of each transferee Additional Units Non-PPA Participant, and the transferee Additional Units Non-PPA Participant shall be obligated to pay for its Obligation Share, increased as aforesaid, as if the Obligation Share of the transferee Additional Units Non-PPA Participant, increased as aforesaid, had been stated originally as the Obligation Share of the transferee Additional Units Non-PPA Participant in its Contract; provided, however, that in no event shall any transfer of any part of a defaulting Additional Units Non-PPA Participant's Obligation Share pursuant to subsection (c) of this Section result in a transferee Additional Units Non-PPA Participant having an Obligation Share (excluding transfers to such transferee Additional Units Non-PPA Participant pursuant to subsection

(a) of this Section) in excess of 130% of its Obligation Share in effect on the Execution Date, as specified on Attachment B hereto.

(e) In the event that less than all of a defaulting Additional Units Non-PPA Participant's Obligation Share shall be sold or transferred to non-defaulting Additional Units Non-PPA Participants pursuant to this Section, the Authority shall use its reasonable best efforts to sell the remaining portion of a defaulting Additional Units Non-PPA Participant's Obligation Share or the energy associated therewith on such terms and conditions as are acceptable to the Authority to any person, firm, association or corporation, public or private; provided, however, that the Authority shall make no such sales in such amounts, for such periods of time and under such terms and conditions as will adversely affect the tax exempt status of the Non-PPA Bonds intended to be tax exempt. A defaulting Additional Units Non-PPA Participant shall remain liable under its Power Sales Contract in all events, except that the obligation of the defaulting Additional Units Non-PPA Participant to pay the Authority shall be reduced to the extent that payment shall be received by the Authority for that portion of a defaulting Additional Units Non-PPA Participant's Obligation Share transferred or sold pursuant to this Section.

**SECTION 508. NON-DEFAULTING ADDITIONAL UNITS NON-PPA PARTICIPANT'S RIGHT OF FIRST REFUSAL.**

In the event that the Authority permanently discontinues service under any Contract to a defaulting Additional Units Non-PPA Participant pursuant to Section 502 thereof, each non-defaulting Additional Units Non-PPA Participant shall have a right of first refusal to purchase a pro rata amount of such defaulting Additional Units Non-PPA Participant's Obligation Share of the output and services of the Non-PPA Project Entity's

Ownership Interest for the period of time that service is discontinued to the defaulting Additional Units Non-PPA Participant. The pro rata amount of each non-defaulting Additional Units Non-PPA Participant's right of first refusal shall be determined as follows: the non-defaulting Additional Units Non-PPA Participant's Obligation Share of the output and services of the Non-PPA Project Entity's Ownership Interest divided by the sum of all Obligation Shares of the output and services of the Non-PPA Project Entity's Ownership Interest of the non-defaulting Additional Units Non-PPA Participants electing to exercise their right of first refusal.

## **ARTICLE VI SERVICE**

### **SECTION 601. CHARACTER AND CONTINUITY OF SERVICE.**

(a) The Authority or the Non-PPA Project Entity may temporarily interrupt, increase or reduce deliveries of electric energy from the Plant Vogtle Additional Units Non-PPA Project if the Authority or the Non-PPA Project Entity or its respective agent determines that such interruption, increase or reduction is necessary in case of emergencies. The Authority or the Non-PPA Project Entity or its respective agent may also interrupt or reduce deliveries of electric energy from the Plant Vogtle Additional Units Non-PPA Project in order to install equipment in or make repairs to or replacements, investigations, and inspections of or to perform other maintenance work on its generation or transmission facilities and related apparatuses (planned interruptions). After informing the Additional Units Non-PPA Participant regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will to the best of its ability schedule, or cause the Non-PPA Project Entity to schedule, such interruption or reduction at a time which will cause the

least interference with the operations of the Plant Vogtle Additional Units Non-PPA Project.

(b) The Authority shall not be required to provide, or be liable for failure to provide, service under this Contract when such failure or the cessation or curtailment of or interference with the service is caused by Uncontrollable Forces.

#### **SECTION 602. METERING.**

(a) The Authority reserves the right to provide for installation of meters and will provide or cause to be provided all necessary metering equipment for determining the quantity and conditions of the supply of electric power and energy delivered by the Authority under this Contract; provided, however, that the Additional Units Non-PPA Participant may at its own cost install additional metering equipment to provide a check on that of the Authority.

(b) If any meter used for billing fails to register or is found to be inaccurate, the Authority shall repair or replace such meter or cause it to be repaired or replaced, and the appropriate billing shall be made to the Additional Units Non-PPA Participant by the Authority based upon the best information available for the period, not exceeding sixty (60) days, during which no metering occurred. Any meter tested and found to be not more than two percent (2%) above or below normal shall be considered accurate insofar as correction of billings is concerned. If, as the result of any test, a meter is found to register in excess of two percent (2%) above or below normal then the reading of such meter previously taken for billing purposes shall be corrected for the period during which it is established the meter was inaccurate, but no correction shall be made for any period beyond sixty (60) days prior to the date on which an inaccuracy is discovered by such

test. The Additional Units Non-PPA Participant shall have reasonable access to read and monitor the meter.

**SECTION 603. POWER DELIVERIES.**

Power and energy furnished to the Additional Units Non-PPA Participant under this Contract shall be in the form of three phase current, alternating at a frequency of approximately 60 Hertz.

**SECTION 604. OTHER TERMS AND CONDITIONS.**

Service hereunder shall be in accordance with such other terms and conditions as are established as part of the Authority's service rules and regulations, which shall not be inconsistent with the provisions of this Contract.

**SECTION 605. DOE GUARANTEED LOAN ARRANGEMENTS.**

(a) The Additional Units Non-PPA Participant acknowledges and agrees that, in connection with the entry into the DOE Loan Documents, the Authority will transfer the Non-PPA Project Portion of the Authority's Interest to the Non-PPA Project Entity, the Authority's wholly-owned, special-purpose direct subsidiary. In connection with this transfer, the Authority will enter into the Non-PPA Project Entity Power Purchase Agreement with the Non-PPA Project Entity pursuant to which the Authority will purchase the output of the Non-PPA Project Entity's Ownership Interest for resale to the Additional Units Non-PPA Participants under the Contracts during the term of the Contracts.

(b) The Additional Units Non-PPA Participant acknowledges and agrees that (i) the Authority may grant a first-priority security interest in and lien on its ownership interest in the Non-PPA Project Entity, and (ii) the Non-PPA Project Entity may grant a first-priority security interest in and lien on all of its assets, including its undivided

ownership interest in the Additional Units, and on its right, title and interest in, to and under the Non-PPA Project Entity Power Purchase Agreement and the Project Agreements, in each such case, to secure the DOE Secured Obligations under the DOE Loan Documents and the DOE Guaranteed Loan.

## **ARTICLE VII MISCELLANEOUS PROVISIONS**

### **SECTION 701. LIABILITY OF PARTIES.**

The Authority and the Additional Units Non-PPA Participant shall assume full responsibility and liability for the maintenance and operation of their respective properties and each shall indemnify and save harmless the other from all liability and expense on account of any and all damages, claims, or actions, including injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party and not caused in whole or in part by the negligence of the other party; provided that any liability which is incurred by the Authority through the operation and maintenance of the Plant Vogtle Additional Units Non-PPA Project and not covered, or not covered sufficiently, by insurance shall be paid solely from the revenues of the Authority, and any payments made by the Authority to satisfy such liability shall become part of the Plant Vogtle Additional Units Non-PPA Project Annual Costs.

### **SECTION 702. ASSIGNMENT OF CONTRACT.**

(a) This Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Contract which may only be assigned as specifically authorized herein. This Contract and the Additional Units Non-PPA Participant's rights and obligations hereunder may be assigned, either in whole or in

part, by the Additional Units Non-PPA Participant to any other Additional Units Non-PPA Participant or, if such assignment will not adversely affect, in the sole opinion of the Authority, (a) the exclusion from gross income for federal income tax purposes of the interest on the Non-PPA Bonds of any series the interest on which is intended to be so excluded or (b) the eligibility of the Authority to receive cash subsidy payments from the United States Treasury equal to a portion of the interest payable on any Build America Bonds, to another third party if such Participant or other third party (i) meets the minimum credit rating established by the Authority for Additional Units Non-PPA Participants, and (ii) is acceptable to the bond insurers or other credit providers for the Authority's Non-PPA Bonds and to DOE. Any assignee of the Additional Units Non-PPA Participant shall specifically assume in writing the Additional Units Non-PPA Participant's obligations under this Contract with respect to the rights transferred, and the Additional Units Non-PPA Participant shall remain contingently liable therefor.

(b) The Additional Units Non-PPA Participant acknowledges and agrees that the Authority may assign and pledge to the Trustee designated in the Non-PPA Bond Resolution, for the benefit of the DOE Collateral Agent, DOE and the other secured parties identified therein, all its right, title and interest in and to all payments to be made to the Authority under the provisions of this Contract attributable to the Plant Vogtle Additional Units Non-PPA Project or to the Plant Vogtle Additional Units Non-PPA Project Annual Costs as security for the payment of amounts due and payable and other obligations under, or secured by, the Non-PPA Bond Resolution (including as security for amounts owed by the Non-PPA Project Entity under the DOE Loan Documents), and, following the execution of such assignment and pledge, upon the occurrence and



continuance of a Bondholders' Event of Default or a Federal Loan Event of Default under (and as each such term is defined in) the Non-PPA Bond Resolution, the Trustee shall have all rights and remedies herein provided to the Authority, including to make all demands, give all notices, take all actions (including collection action) and exercise all rights on behalf or in the place of the Authority. The Trustee and the Non-PPA Project Entity each shall be a third-party beneficiary of the covenants and agreements of the Additional Units Non-PPA Participant herein contained.

(c) The Additional Units Non-PPA Participant (i) has received no written notice of any previous assignment by the Authority of all or any part of its rights under this Contract and (ii) except as set forth in Section 702(b) hereof, has not consented to any previous assignment by the Authority of all or any part of its rights under this Contract.

(d) Except as permitted by Section 702(b) hereof, this Contract may not be assigned by the Authority without the prior written consent of the DOE Collateral Agent.

**SECTION 703. TERMINATION OR AMENDMENT OF CONTRACT.**

(a) Subject to Section 101 hereof, this Contract shall not be terminated by either party under any circumstances, whether based upon the default of the other party under this Contract or any other instrument or otherwise except as specifically provided in this Contract.

(b) This Contract, on which purchasers of Non-PPA Bonds, DOE and FFB and/or the Other Lenders shall have relied as an inducement to purchase and hold the Non-PPA Bonds, to guarantee the DOE Guaranteed Loan and to make the DOE Guaranteed Loan, respectively, shall not be amended, modified, or otherwise altered in any manner except as provided in this Contract. So long as any of the Non-PPA Bonds

or the DOE Secured Obligations are outstanding or until adequate provisions for the payment thereof have been made in accordance with the provisions of the Non-PPA Bond Resolution and the DOE Loan Documents, respectively, this Contract shall not be amended, modified, or otherwise altered in any manner which will reduce the payments pledged as security for the Debt Service on all the Non-PPA Bonds and as security for the DOE Secured Obligations or extend the time of such payments provided herein or adversely impact, in the opinion of the Authority, the tax exempt status of the Non-PPA Bonds, or which will in any manner impair or adversely affect the rights of the owners from time to time of the Non-PPA Bonds or the rights of the DOE Secured Parties pursuant to the DOE Loan Documents. Subject to the foregoing and any other limitations contained in the PPA Bond Resolution or the DOE Loan Documents, any amendment of this Contract must be in writing and duly executed by both the Authority and the Additional Units Non-PPA Participant.

**SECTION 704. SEVERABILITY.**

In case any one or more of the provisions of this Contract shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, it is the intention of each of the parties hereto that such illegality or invalidity shall not affect any other provision hereof, but this Contract shall be construed and enforced as if such illegal or invalid provision had not been contained herein, and this Contract shall be construed to adopt, but not to enlarge upon, all of the applicable provisions of said Act, and all the applicable provisions of the Constitution and general laws of Georgia, and, if any provisions hereof conflict with any applicable provision of said Constitution or laws, the former as proposed by the legislature, approved by the people of the State of Georgia and interpreted by the courts of the State of Georgia, and the latter as adopted by the

legislature and as interpreted by the courts of the State of Georgia, shall prevail in lieu of any provision hereof in conflict or not in harmony therewith.

**SECTION 705. GOVERNING LAW.**

This Contract shall be governed by, and construed in accordance with, the laws of the State of Georgia.

**SECTION 706. DULY AUTHORIZED SIGNATORIES; BINDING EFFECT OF EXECUTION.**

The Authority as to its signatory and the Additional Units Non-PPA Participant as to its signatory hereby represents and warrants that the person executing this Contract on its respective behalf is duly authorized to do so, and that, by such execution, such party is hereby duly and lawfully bound by this Contract.

IN WITNESS WHEREOF, the Municipal Electric Authority of Georgia has caused this Contract to be executed in its corporate name by its duly authorized officers and, by the execution hereof it is acknowledged that payments made under this Contract may be assigned, as provided in Section 308 hereof, and the Authority has caused its corporate seal to be hereunto impressed and attested; the Additional Units Non-PPA Participant has caused this Contract to be executed in its corporate name by its duly authorized officers and its corporate seal to be hereunto impressed and attested, and delivery hereof by the Authority to the Additional Units Non-PPA Participant is hereby acknowledged, all as of the day and year first above written.

MUNICIPAL ELECTRIC AUTHORITY OF  
GEORGIA

BY: \_\_\_\_\_  
TITLE: President and Chief Executive Officer

ATTEST:

BY: \_\_\_\_\_  
TITLE: Assistant Secretary-Treasurer

(SEAL)

ADDITIONAL UNITS NON-PPA PARTICIPANT  
CITY OF \_\_\_\_\_

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

(SEAL)

**SCHEDULE I**  
**AMENDMENTS TO ORIGINAL CONTRACT**

As provided in Section 101 of the Amended and Restated Plant Vogtle Additional Units Non-PPA Power Sales Contract to which this Schedule I is attached (the “Contract”), in the event that (a) the Effective Date shall not occur on or before January 1, 2017 or (b) the DOE Loan Guarantee Agreement and the other DOE Loan Documents shall be terminated prior to the making of any Advance, the Original Contract shall be amended as follows:

(1) The term thereof (as provided in Section 101 thereof) shall be and be deemed to have been extended to the date that is fifty (50) years following the Execution Date of the Contract.

(2) Section 102 of the Original Contract shall be amended to add thereto, in the appropriate alphabetical order, a definition of “Build America Bonds,” to read as follows:

“Build America Bonds” shall mean any Non-PPA Bonds with respect to which the Authority has irrevocably elected, pursuant to Section 54AA(g) of the Internal Revenue Code of 1986, as amended, or any other similar federal program creating subsidies for municipal borrowers for which the Authority qualifies, to receive cash subsidy payments from the United States Treasury equal to a portion of the interest payable on such Non-PPA Bonds.

(3) The first sentence of Section 206 of the Original Contract shall be amended to read as follows (with additions being indicated by double-underscoring):

So long as the Authority has tax exempt Non-PPA Bonds or Build America Bonds outstanding, the Additional Units Non-PPA Participant agrees that it shall not, without the express written consent of the Authority, enter into any contract pursuant to which a non-exempt person agrees to purchase power produced by the Plant Vogtle Additional Units Non-PPA Project in a manner that results in private business use within the meaning of the Internal Revenue Code of 1986, as amended, modified or re-enacted (or any successor thereto) (the "Code").

(4) The first sentence of Section 207 of the Original Contract shall be amended to read as follows (with additions being indicated by double-underscoring):

The Additional Units Non-PPA Participant hereby covenants that it shall take no action, nor shall it consent to or approve the taking of any action, that would in the opinion of the Authority adversely affect (a) the exclusion from gross income for federal income tax purposes of the interest on the Non-PPA Bonds of any series the interest on which is intended to be so excluded or (b) the eligibility of the Authority to receive cash subsidy payments from the United

States Treasury equal to a portion of the interest payable on any Build America Bonds.

(5) The second sentence of Section 702(a) of the Original Contract shall be amended to read as follows (with additions being indicated by double-underscoring and deletions being struck-through):

Thereafter, this Contract and the Additional Units Non-PPA Participant's rights and obligations hereunder may be assigned, either in whole or in part, by the Additional Units Non-PPA Participant to any other Additional Units Non-PPA Participant or, if such assignment will not adversely affect, in the sole opinion of the Authority, ~~the tax exempt status of the Authority's outstanding Non-PPA Bonds~~ (a) the exclusion from gross income for federal income tax purposes of the interest on the Non-PPA Bonds of any series the interest on which is intended to be so excluded or (b) the eligibility of the Authority to receive cash subsidy payments from the United States Treasury equal to a portion of the interest payable on any Build America Bonds, to another third party if such Participant or other third party (i) meets the minimum credit rating established by the Authority for Additional Units Non-PPA Participants, and (ii) is acceptable to the bond insurers or other credit providers for the Authority's Non-PPA Bonds.



## **ATTACHMENT A**

### **DESCRIPTION OF THE AUTHORITY'S INTEREST IN THE PLANT VOGTLE ADDITIONAL UNITS**

#### **I. Authority's Interest.**

The Authority's Interest in the Additional Units shall consist of the ownership (whether owned in whole or in part by the Authority or by any entity (including, without limitation, the Non-PPA Project Entity) that is a wholly-owned subsidiary of the Authority (a "Project Entity")) of a 22.7% undivided interest in the two additional nuclear units, each 1,102 megawatts Nominally Rated, to be located at Plant Vogtle, in Burke County, Georgia and consisting of (i) nuclear power reactors, the turbine-generators, the buildings housing the same, the associated auxiliaries and equipment, and the related transmission facilities (as more specifically described in the application, and amendments thereto, filed by the Georgia Power Company with the Nuclear Regulatory Commission for a Combined Construction and Operating License); (ii) inventories of materials, supplies, Fuel, tools and equipment for use in connection with the Additional Units to be constructed at Plant Vogtle; (iii) land adequate for the Additional Units or, alternatively, appropriate easements granting the right of use to land adequate for the Additional Units, and site preparation, foundations, fencing and fire protection; (iv) the right of use of the infrastructure and system supporting the existing units one and two at Plant Vogtle as well as existing services supporting such units; (v) all property and equipment for connecting the generating facilities to the transmission system at the point where said transmission system forms part of the Georgia Integrated Transmission System (as determined as of June 15, 2008, the dated date of the Original Contract), including, without limitation, the step-up transformers, high side bushing to the electrical

transmission system, all related switching stations, remote terminal unit and connections to Supervisory Control and Data Acquisition System (SCADA); (vi) inventories of materials, supplies, tools and equipment; and (vii) prepayment of initial supply of Fuel; and (viii) the additional facilities of the Additional Units as described in Part II of this Attachment.

## II. Additional Facilities.

The additional facilities of the Additional Units shall include (i) any major renewals, replacements, repairs, additions, betterments and improvements to the Additional Units necessary, in the opinion of the Authority, to keep the Additional Units in good operating condition or to prevent a loss of revenues therefrom, and (ii) any major additions, improvements, repairs and modifications to the Additional Units and any disposals of the Additional Units required by any government agency having jurisdiction over the Additional Units or for which the Authority (or a Project Entity) shall be responsible by virtue of any obligation of the Authority (or such Project Entity) arising out of any contract to which the Authority (or such Project Entity) may be a party relating to ownership of the Additional Units or any facility thereof.

**ATTACHMENT B TO PLANT VOGTLE ADDITIONAL UNITS  
NON-PPA POWER SALES CONTRACT**

<i><b>Additional Units Non-PPA Participants</b></i>	<i><b>Obligation Shares</b></i>
Acworth	3.89477%
Adel	2.36047%
Barnesville	0.88518%
Blakely	0.40954%
Buford	3.55014%
Cairo	1.67888%
Calhoun	5.90117%
Camilla	3.08867%
Cartersville	8.85175%
Commerce	2.95058%
Covington	11.80234%
Crisp County	16.22822%
Douglas	1.38382%
Elberton	1.88837%
Fairburn	1.88837%
Grantville	0.17704%
Griffin	10.62210%
Hogansville	0.29506%
LaFayette	0.59012%
LaGrange	4.72093%
Mansfield	0.18235%
Monroe	1.41628%
Moultrie	2.95058%
Newnan	4.72093%
Norcross	2.24244%
Palmetto	0.06786%
Thomaston	0.59012%
Thomasville	3.54070%
West Point	1.12122%
Total	100.00%