

SPECIFIED CONFIDENTIAL
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MSJ 12.10.03

Capacity Payment Comparison **Exhibit 2A**
Orange/Mulberry/Royster Restructuring
(Based on 184 MW, Revised)

Year	Existing Contract Capacity Payments	Restructured Contract Capacity Payments	Ratepayer Savings	Composite Reduction
2002	30,422,685	28,505,280	1,917,405	6%
2003	63,634,196	59,638,080	3,996,116	6%
2004	66,557,000	62,376,000	4,181,000	6%
2005	69,780,623	65,400,960	4,379,663	6%
2006	73,313,420	68,712,960	4,600,460	6%
2007	77,022,183	72,179,520	4,842,663	6%
2008	80,922,096	75,844,800	5,077,296	6%
2009	80,111,495	74,909,520	5,201,975	6%
2010	73,850,660	68,664,240	5,186,420	7%
2011	77,573,433	72,120,432	5,453,001	7%
2012	78,654,157	73,113,168	5,540,989	7%
2013	82,668,837	76,826,736	5,842,101	7%
2014	86,881,805	80,742,528	6,139,277	7%
2015	91,313,672	84,878,928	6,434,744	7%
2016	95,982,442	89,217,552	6,764,890	7%
2017	100,870,111	93,758,400	7,111,711	7%
2018	106,024,729	98,538,240	7,486,489	7%
2019	111,408,553	103,538,688	7,869,865	7%
2020	117,098,810	108,833,280	8,265,530	7%
2021	123,075,759	114,385,248	8,690,511	7%
2022	129,342,008	120,212,976	9,129,032	7%
2023	135,953,304	126,353,232	9,600,072	7%
2024	115,703,929	107,718,144	7,985,785	7%
2025	64,440,748	60,446,160	3,994,588	6%

This docketed notice of intent was filed with Confidential Document No. 02244-02. The document has been placed in confidential storage pending timely receipt of a request for confidentiality.

DOCUMENT NUMBER-DATE
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Capacity Payment Comparison Orange/Mulberry/Royster Restructuring

Exhibit 2B

(Based on 160 MW)

Year	Existing Contract Capacity Payments	Restructured Contract Capacity Payments	Ratepayer Savings	Composite Reduction
2002	26,776,178	25,084,800	1,691,378	6.3%
2003	55,980,051	52,454,400	3,525,651	6.3%
2004	58,523,361	54,835,200	3,688,161	6.3%
2005	61,343,008	57,484,800	3,858,208	6.3%
2006	64,453,464	60,403,200	4,050,264	6.3%
2007	67,721,525	63,456,000	4,265,525	6.3%
2008	71,156,252	66,681,600	4,474,652	6.3%
2009	69,855,982	65,286,160	4,569,822	6.5%
2010	63,077,933	58,558,608	4,519,325	7.2%
2011	66,265,131	61,519,872	4,745,259	7.2%
2012	67,703,925	62,837,712	4,866,213	7.2%
2013	71,158,546	66,031,536	5,127,010	7.2%
2014	74,783,910	69,395,904	5,388,006	7.2%
2015	78,600,630	72,946,320	5,654,310	7.2%
2016	95,982,442	89,217,552	6,764,890	7.0%
2017	100,870,111	93,758,400	7,111,711	7.1%
2018	106,024,729	98,538,240	7,486,489	7.1%
2019	111,408,553	103,538,688	7,869,865	7.1%
2020	117,098,810	108,833,280	8,265,530	7.1%
2021	123,075,759	114,385,248	8,690,511	7.1%
2022	129,342,008	120,212,976	9,129,032	7.1%
2023	135,953,304	126,353,232	9,600,072	7.1%
2024	115,703,929	107,718,144	7,985,785	6.9%
2025	64,440,748	60,446,160	3,994,588	6.2%

**MASTER AGREEMENT TO AMEND AND RESTATE CONTRACTS FOR THE
PURCHASE OF FIRM CAPACITY AND ENERGY**

BETWEEN

FLORIDA POWER CORPORATION

AND

CEDAR BRAKES IV, LLC

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**MASTER AGREEMENT TO AMEND AND RESTATE CONTRACTS
FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY**

**THIS MASTER AGREEMENT TO AMEND AND RESTATE
CONTRACTS FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY**

("Agreement"), dated as of _____, 2002, is entered into by and between **FLORIDA POWER CORPORATION**, a corporation organized and existing under the laws of the State of Florida ("Buyer"), and **CEDAR BRAKES IV, LLC** ("Cedar Brakes" or "Seller"), a limited liability company organized and existing under the laws of the State of Delaware,

W I T N E S S E T H:

WHEREAS, Buyer is a party to certain Contracts (as hereinafter defined) with Orange Cogeneration Limited Partnership ("Orange LP") and Polk Power Partners, L.P. ("Polk LP") (together, the "Partnerships"), pursuant to which Buyer purchases one-hundred-eighty-four (184) megawatts of capacity and associated energy generated at the Mulberry Facility (as hereinafter defined) and the Orange Facility (as hereinafter defined); and

WHEREAS, AEP Energy Services, Inc., El Paso Merchant Energy, LLC (the "Sponsors") and Cedar Brakes are affiliates; and

WHEREAS, Cedar Brakes intends to succeed to the interests of the Partnerships in the Contracts with the consent of Buyer, or in the alternative the Sponsors shall cause the Partnerships to execute and become signatories to this Agreement, and in either case to cause the Contracts to be amended and restated by this Agreement; and

WHEREAS, Buyer desires to reduce the cost of capacity under the Contracts, and Cedar Brakes has agreed to accept lower prices for such capacity in return for Buyer's agreement to (i) provide Seller increased flexibility to source capacity and energy sold to Buyer, and (ii) cooperate with respect to the Project Restructuring.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises, the mutual promises and agreements set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, all of the signatories to this Agreement, each intending to be legally bound, hereby agree as follows:

**ARTICLE I
DEFINITIONS**

1.1 **Certain Definitions.** In addition to the capitalized terms and phrases defined in the preamble of this Agreement, the following capitalized terms and phrases as and when used in this Agreement shall have the respective meanings set forth below:

"Affiliate" - of any specified entity means any other entity directly or indirectly controlling or controlled by or under direct or indirect common control with such specified entity. For purposes of this definition, "control" when used with respect to any entity means (i) the power to vote ten percent (10%) or more of the securities having ordinary voting power of

such entity or (ii) the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Aggregate Capacity Charge" - means that which is labeled "Aggregate Capacity Charge" as shown in Exhibit A hereto and/or that which is labeled "Aggregate Capacity Charge Pursuant to Adjustment as Provided by Section 5.5" as shown in Exhibit A hereto.

"Aggregate Committed Capacity" - has the meaning ascribed to this term as reflected by Exhibit A hereto, adjusted, if required, pursuant to the provisions of Section 5.5 hereof.

"Annual Adjustment Factor" - means an annual inflation adjustment used herein. The Annual Adjustment Factor for any year shall be equal to the increase in the CPI-U (as defined herein) for the most recently completed calendar year over the second preceding calendar year, *i.e.*, the percentage difference between the CPI-U for 2000 and the CPI-U for 2001 to determine the Annual Adjustment Factor for the year 2002. By example, if the CPI-U for 2000 is 100, and the CPI-U for 2001 is 102, then the Annual Adjustment Factor for the year 2002 is 2%.

"As Available Energy Price" - means Buyer's price for as available Energy using as a proxy a calculation in accordance with FPSC Rule 25-17.0825, as in effect from time to time during the Term, provided that if neither FPSC Rule 25-17.0825 nor any successor rule or regulation of the FPSC to the same purpose (such current or successor regulation the "As Available Price Rule") is in effect, the Parties shall promptly meet and attempt to agree upon a price reference (including the pricing point and a methodology to account for differences, if any, in the location of the selected pricing point and the Delivery Point as hereinafter defined), which shall thereafter be the As Available Energy Price. If the Parties cannot agree upon an As Available Energy Price within thirty (30) Days after the expiration of the As Available Price Rule (such period the "Negotiation Period"), then within five (5) Business Days after the expiration of the Negotiation Period each Party shall submit to the other Party a prioritized list of up to five (5) price references. The first listed price reference listed in Buyer's list that also appears in Seller's list shall become the As Available Energy Price. If no common price reference appears in both Parties' lists, each Party shall submit a new list to the other Party within five (5) Business Days, and the foregoing selection procedure shall apply. If after three (3) such exchanges of lists no common price reference appears in both Parties' lists, the determination of the price reference to be used to calculate the As Available Energy Price shall be submitted to binding arbitration in accordance with the procedure set out in Exhibit G hereto, unless the Parties otherwise agree upon an As Available Energy Price. If either Party fails to timely submit a price reference list, such Party's list shall not be considered and the first price reference from the other Party's list shall become the As Available Energy Price. During the period from and including the first date the As Available Price Rule is no longer in effect, until the date that a substitute As Available Energy Price is determined (such period the "Interim Pricing Period"), the As Available Energy Price shall be determined by continuing to make such calculation pursuant to the As Available Price Rule last in effect. Upon first determination of a new As Available Energy Price following expiration of the As Available Price Rule, the price for Energy delivered during the Interim Pricing Period until the earlier of the anniversary of the first date the

As Available Price Rule is no longer in effect and the end of the Interim Pricing Period, shall be recalculated in accordance with the new As Available Energy Price, and any net difference shall be paid by the Party having benefited by such difference to the other Party, such payment being due upon the next monthly billing statement following said recalculations. During any period in which a rule or regulation of the FPSC to the same effect as the As Available Price Rule is again effective, the As Available Energy Price shall be calculated in accordance with such rule or regulation.

"Business Day" - means any Day excluding Saturday, Sunday, any Day on which banking institutions in Florida are closed because of a federal holiday, and any Day that may from time to time be designated a holiday by the North American Electric Reliability Council.

"Call Energy" - has the meaning ascribed to this term in Exhibit C hereof.

"Capacity Charge" - means the Aggregate Capacity Charge, expressed in dollars per kW of Committed Capacity per month, as adjusted if required pursuant to Section 5.5 hereof, all as set forth in Exhibit A hereto.

"Capacity Factor" - means a number, expressed as a percentage, determined by dividing (i) the Energy delivered plus the Energy that could have been delivered but for Buyer's Schedule having been cut during a Month in which capacity is committed pursuant to the provisions of Section 4.1 hereof, plus Energy that could have been delivered but for Buyer's non-performance or Event of Default, such Energy being expressed in MWh, by (ii) the sum of (a) the Committed Capacity for that Month multiplied by the aggregate number of hours in such Month during which both (1) Energy is Scheduled pursuant to the provisions of Section 5.2.1 hereof and (2) Buyer requests the Call Energy pursuant to Section 5.2.1 plus (b) the Committed Capacity for that Month less the Committed Capacity for that Month associated with the Call Energy multiplied by the aggregate number of hours in such Month during which both (1) Energy is Scheduled pursuant to the provisions of Section 5.2.1 hereof and (2) Buyer does not request the Call Energy pursuant to Section 5.2.1. Both the numerator and the denominator shall include the MWh per hour during hours in which Energy is Scheduled but not delivered by Seller or received by Buyer (i) due to a Force Majeure Event or (ii) because Buyer has committed an Event of Default under this agreement. For purposes of calculating the Capacity Factor, neither Put Energy nor Optional Energy as hereinafter defined shall be utilized in the calculation.

"Claims" - means any and all claims, demands, actions, causes of action, responsibilities, damages, fines, penalties, deficiencies, losses, expenses, costs, disbursements, liabilities and obligations, including, without limitation, liability in tort (including negligence and strict liability), interest, court costs, reasonable fees and expenses of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or of any claim, default or assessment and whether at law or in equity.

"Commencement Date" - has the meaning ascribed to this term in Section 2.1.2 hereof.

"Committed Capacity" - means an amount of capacity, measured in MW, from a Committed Facility sufficient to meet Seller's obligations as set forth in Exhibit A.

"Committed Facility" - means one or more electric generating facilities with firm transmission to a Delivery Point, with some or all of the capacity of which is available to Seller to supply the Committed Capacity to Buyer in accordance with the provisions of this Agreement.

"Contracts" - means (i) that certain Dispatchable Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated November 19, 1991, between Buyer and CFR Bio-gen Corporation (predecessor in interest to Orange LP), covering 74 MW of the capacity and energy of the Orange Facility, as hereinafter defined (the "Orange Contract"), (ii) that certain Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated March 12, 1991, between Buyer and Mulberry Energy Company (predecessor in interest to Polk LP), covering 79.2 MW of the capacity and energy of the Mulberry Facility, as hereinafter defined (the "Mulberry Contract"), and (iii) that certain Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated March 17, 1991, between Buyer and Royster Phosphates, Inc. (predecessor in interest to Polk LP), covering 30.8 MW of the capacity and energy of the Mulberry Facility (the "Royster Contract"), as each shall have been amended, including, without limitation, amendments in connection with the Project Restructuring but not including the Amendment contemplated by this Agreement.

"CPI-U" - means the Annual Consumer Price Index figure shown for all items in the Consumer Price Index for All Urban Consumers-South Urban (Not Seasonally Adjusted), Series I.D. CUUR0300SA0 as published by the United States Department of Labor, Bureau of Labor Statistics, or such other relevant index of consumer prices in the Florida region as the Parties may mutually agree in the event the CPI-U is substantially modified or no longer published in the future.

"Day" - means a calendar day.

"Delivered Energy" - means all of the Energy delivered to Buyer pursuant to this Agreement at a Delivery Point.

"Delivery Point" - means any point on Buyer's electric transmission system designated for the delivery of Energy to Buyer in accordance with the provisions of this Agreement, as identified on Exhibit B. Seller may designate any other delivery point not on Buyer's electric transmission system with Buyer's consent, such consent not to be unreasonably withheld, provided that there is a firm transmission path from such delivery point to Buyer's electric transmission system, and provided further that any such change in Delivery Points shall be reflected by an amendment to Exhibit B to be attached hereto.

"Energy" - means electric energy of the character commonly known as three-phase, sixty-hertz, alternating current, and otherwise as required by FRCC practices, at the nominal voltage of the Delivery Point.

"Energy Price" - has the meaning ascribed to this term in Exhibit C.

"EPT" - means Eastern Prevailing Time which, for purposes of this Agreement, means Eastern Standard Time or Eastern Daylight Time, whichever is in effect at the time of any obligation under this Agreement.

"FERC" - means the Federal Energy Regulatory Commission or any Governmental Authority succeeding to some or all of the jurisdiction currently vested in the FERC.

"FPSC" - means the Florida Public Service Commission or any Governmental Authority succeeding to some or all of the jurisdiction currently vested in the FPSC.

"FRCC" - means the Florida Reliability Coordinating Council and any successor entity.

"Force Majeure Event" - has the meaning ascribed to this term set forth in Section 8.1 hereof.

"Full Actual Output" - means an amount of Energy equal to the net Energy generated by any or all of the Committed Facilities, as the case may be, when operated consistent with Good Utility Practices, as hereinafter defined, taking into account then prevailing weather conditions, house power requirements, restrictions imposed by environmental permits and type of fuel then in use.

"Good Utility Practices" - means, at a particular time, any of the practices, methods and acts engaged in or approved by a significant portion of generators in the electric power industry in FRCC prior to such time, or any of the practices, methods and acts which in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired results at the lowest cost consistent with good business practices, reliability, safety and expedition. Good Utility Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts expected to accomplish the desired results, having due regard for, among other things, manufacturers' warranties, Legal Requirement of any Governmental Authority, (as defined hereinafter), and the requirements of this Agreement.

"Governmental Authority" - means any local, state, regional or federal administrative, legal, judicial or executive agency, court, commission, department or other such entity, but excluding any such agency, court, commission, department or other such entity acting in its capacity as lender, guarantor or mortgagee.

"Interest Rate" - means an annual rate equal to the sum of: (a) one percent (1%) and (b) the thirty (30) Day highest grade commercial paper rate as published in the *Wall Street Journal* on the first Business Day of each Month.

"kW" - means one (1) kilowatt.

"kWh" - means one (1) kilowatt hour.

"Legal Requirement" - means any law, code, statute, regulation, rule, ordinance, judgment, injunction, order or other requirement of a Governmental Authority having jurisdiction over the matter in question that is valid and applicable to the matter in question.

"Lenders" - means any or all lenders, but not equity investors, except to the extent and in the capacity that such equity investors are also lenders as of the date of this Agreement, providing any financing or refinancing to Cedar Brakes or one or more Affiliates of Cedar Brakes in connection with any of the Committed Facilities or the Project Restructuring.

"Month" - means a calendar month, commencing at the beginning of the first Day of such calendar month.

"Monthly" - means each Month.

"Monthly Capacity Payment" - means, for any Month, an amount of money to be paid by Buyer to Seller determined by multiplying the applicable Aggregate Capacity Charge by the Aggregate Committed Capacity in kW, as set forth in said Exhibit A (reduced in accordance with Section 5.6 hereof, if applicable), provided that the Monthly Capacity Payment shall be prorated on a daily basis if the Term (as hereinafter defined) commences or expires, the Agreement terminates, or the quantity of Committed Capacity changes, during a Month. By way of example, because the Committed Capacity is reduced by an amount equal to 30.8 MW after August 9, 2009, the Monthly Capacity Payment for the month of August, 2009 is equal to $\$36.09/\text{kW} \times 184,000 \text{ kW} \times 9 \text{ Days}/31 \text{ Days} + \$35.55/\text{kW} \times 153,200 \text{ kW} \times 22 \text{ Days}/31 \text{ Days}$, or \$5,578,780.65, less any reductions in accordance with Section 5.6, if applicable.

"Monthly Energy Payment" - means, for any Month, the amount of money to be paid by Buyer to Seller for Seller's delivery of Delivered Energy in accordance with this Agreement, which amount shall be equal to the sum of (i) the product of (A) the Energy Price, multiplied by (B) the number of MWh of Energy delivered to the Delivery Points during such Month, plus (ii) payments due for Put Energy and Optional Energy as each is hereinafter defined.

"Mulberry Facility" - means the natural gas fired electric cogeneration facility, having a nominal electric generating capacity of 110 MW, located in Polk County, Florida, owned as of the date of this Agreement by Polk LP.

"Mulberry Contract" - has the meaning ascribed to this term within the above definition of "Contracts".

"MW" - one (1) megawatt, or one thousand (1,000) kW.

"MWh" - means one (1) megawatt - hour, or one thousand (1,000) kWh.

"Optional Energy" - means Energy sold to Buyer in accordance with Section 5.3.4 hereof.

"Orange Contract" - has the meaning ascribed to this term within the above definition of "Contracts".

"Orange Facility" - means the natural gas fired electric cogeneration facility, having a nominal electric generating capacity of 103 MW, located in Polk County, Florida, owned as of the date of this Agreement by Orange LP.

"Party" or "Parties" - means any of, or all of, the Persons who are or become the Buyer or the Seller under this Agreement, as the case may require.

"Person" - means any natural person or any corporation, association, partnership, trust, limited liability company, estate, Governmental Authority or other legal entity.

"Project Restructuring" - means the restructuring of ownership, financing arrangements, fuel supply and other project and partnership agreements related to the Orange Facility and the Mulberry Facility.

"Proprietary Information" - of a Party means information rightfully in the possession of such Party, which information derives economic value from not being generally known to, and not being readily ascertainable by proper means by, another Person who can obtain economic value from its disclosure and use, and that is the subject of reasonable efforts to maintain its secrecy.

"PURPA" - means the Public Utility Regulatory Policies Act of 1978, as amended, and the implementing regulations promulgated by the FERC and the FPSC from time to time.

"Put Energy" - means Energy sold to Buyer in accordance with Sections 5.3.1 and 5.3.2 hereof.

"Ramp Period" - means the period of time when a Committed Facility is starting up or shutting down. With respect to a Committed Facility other than the Mulberry Facility or the Orange Facility, the Ramp Period shall be mutually agreed upon by Buyer and Seller, each negotiating in good faith. With respect to the Mulberry Facility and the Orange Facility, the Ramp Period shall not exceed three (3) hours with respect to a start-up in Energy output (which shall be deemed to have terminated at the end of the hour in which such increase is completed), and shall not exceed two (2) hours with respect to a shut down in Energy output (which shall be deemed to have started at the beginning of the hour in which such reduction is commenced).

"Royster Contract" - has the meaning ascribed to this term within the above definition of "Contracts"

"Schedule" or "Scheduling" - means, when used in reference to Seller, as hereinafter defined, to contractually arrange for Energy to be made available at a Delivery Point for delivery to or for the account of Buyer, and means, when used in reference to Buyer, to have available transmission capacity sufficient to permit Buyer to receive the Delivered Energy, Optional Energy, or Put Energy made available at the Delivery Point.

"Scheduled Energy" - means Energy Scheduled in accordance with Sections 5.2.1 through 5.3.4 hereof, inclusive.

"Seller" - means Cedar Brakes and Affiliates of Cedar Brakes that become Parties to this Agreement, their successors and assigns as may be permitted under this Agreement, acting and having rights and obligations under this Agreement jointly and severally.

"Taxes" - means any and all taxes, other than taxes based on net income or net worth, including but not limited to ad valorem, property, occupation, severance, generation, first use, conservation, Btu or energy, transmission, utility, gross receipts, privilege, sales, use, excise and other taxes, governmental charges, licenses, fees, permits and assessments of any kind or nature, however described, together with any and all penalties, fines, additions to tax, or interest thereon.

"TECO" - means the Tampa Electric Company, a Florida electric utility.

"TECO Contract" means that certain Standard Offer Contract for the Purchase of Firm Energy and Capacity from a Qualifying Facility, dated the 17th of April, 1989, by and between Polk Power Project (predecessor in interest to Orange LP) and TECO, as amended.

"Term" - means the term of this Agreement as specified in Section 2.3.1 hereof.

1.2 Interpretation. In this Agreement and the Exhibits hereto, unless the context otherwise requires:

1.2.1 words generally importing the singular shall include the plural, and words generally importing the plural shall include the singular;

1.2.2 all Exhibits attached hereto are incorporated by reference herein;
and

1.2.3 to the extent that any term or provision of this Agreement is inconsistent with any term or provision of any of the Contracts, the terms and provisions of this Agreement shall govern such matter and the inconsistent term or provision of the Contracts shall be deemed inoperable as to such matter.

ARTICLE II EFFECTIVENESS, AMENDMENT OF CONTRACTS, AND TERM OF AGREEMENT

2.1 Effectiveness and Commencement Date.

2.1.1 This Agreement shall become effective when executed and delivered by both Buyer and Cedar Brakes.

2.1.2 The obligations of Buyer and Seller with respect to the purchase and sale of Committed Capacity and Delivered Energy hereunder shall commence on the last date (the "Commencement Date") on which all of the following conditions precedent have been satisfied or waived by the affected Party:

(a) all representations and warranties of Buyer hereunder shall be true and correct as of the Commencement Date as if made on and as of the Commencement Date;

(b) all representations and warranties of Seller hereunder shall be true and correct as of the Commencement Date as if made on and as of the Commencement Date;

(c) each of the Parties shall have delivered to the other Party legal opinions in the form(s) attached hereto as Exhibit F;

(d) Seller and Affiliates shall have completed the Project Restructuring and obtained the approval thereof by all of the owners and by the Lenders that provided financing for the Orange Facility and the Mulberry Facility, all on terms and conditions satisfactory to Seller in its sole discretion;

(e) Buyer shall have executed an Interconnection Agreement with the Orange and Mulberry Facility owners or operators, as the case may be, on terms and conditions mutually satisfactory to Buyer and Seller;

(f) Seller shall have succeeded to the interests of the Partnerships in the Contracts, or shall have caused the Partnerships to execute and become Parties to this Agreement, with the consent of Buyer, such consent to be deemed granted upon certification by Seller to Buyer that such succession or execution is consistent with and in furtherance of the Project Restructuring and Sellers' obligations under this Agreement;

(g) Buyer and Seller shall have obtained the consent or deemed consent of each collateral agent under each Consent and Agreement executed by Buyer with respect to the financing for the Orange Facility and the Mulberry Facility;

(h) A final order, no longer subject to any appeal, shall have been issued by all Governmental Authorities having applicable jurisdiction, in form and substance reasonably acceptable to Buyer;

(i) Seller shall have received financing on terms reasonably acceptable to Seller;

(j) Seller's market-based rate filing shall have become effective and shall no longer be subject to appeal;

(k) Seller has succeeded to the interests of the Partnerships in the Contracts with the consent of Buyer, or alternatively the Partnerships have executed and become signatories to this Agreement;

(l) Both Parties waive any claims that either Party may have against the other Party pursuant to, and defaults under, the Contracts except for amounts coming due and owing after the Commencement Date; and

(m) Buyer shall have executed a consent to assignment on terms and conditions reasonably acceptable to Buyer in connection with Seller's assignment of this Agreement to the Lenders.

All of the foregoing conditions precedent shall only be satisfied or waived as of the Commencement Date. The obligations of Buyer and Seller shall not be affected in the event any of the foregoing conditions precedent are no longer true or accurate following the Commencement Date.

2.1.3 Each of the Parties shall cooperate in good faith and shall use commercially reasonable efforts to cause the foregoing conditions precedent over which it has control to be satisfied as soon as reasonably possible. If, notwithstanding the reasonable efforts of both Parties, all of the conditions precedent have not been satisfied or waived by the Party entitled to the benefit thereof and the Commencement Date has not occurred before December 31, 2002 or if the Parties mutually agree prior to such date that it will not be possible to satisfy a condition precedent, then either Party may terminate this Agreement, without additional cost or liability to the other Party resulting from such termination, upon thirty (30) Days prior written notice to the other Party.

2.2 Amendment of Contracts. The Parties agree hereby that, as of the Commencement Date, the Contracts, and each of them, are deemed to be amended and restated in their entirety by this Agreement, and the terms and provisions of the Contracts are deemed to be replaced in their entirety by the terms and provisions of this Agreement, except as otherwise expressly provided in Section 5.5 herein.

2.3 Term.

2.3.1 The Term of this Agreement shall mean the period from and including the Commencement Date and through and including December 31, 2025.

2.3.2 At the expiration of the Term, the Parties shall no longer be bound by the terms and provisions hereof, except to the extent necessary to provide for final billings and payments and to enforce the rights and the obligations of the Parties arising under this Agreement prior to such expiration.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Buyer:

3.1.1 Seller is a corporation, partnership, limited partnership or limited liability company, duly organized, validly existing and in good standing, is qualified to do business in the State of Florida and has the legal power and authority to own or lease its properties, to conduct its business, to enter into this Agreement, to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

3.1.2 Except as set forth on Exhibit D, and subject to the satisfaction or waiver of the conditions precedent set out in Section 2.1.2, the execution, delivery and performance by Seller of this Agreement have been duly authorized by all necessary corporate action, and do not and will not require any consent or approval of any other entity or Governmental Authority, other than those that have been obtained.

3.1.3 The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of and compliance with the provisions of this Agreement by Seller do not and will not conflict with, or constitute a breach of or a default under, any of the terms, conditions or provisions of any Legal Requirements, or Seller's articles of incorporation, charter, by-laws, partnership or limited partnership agreement or other similar document, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument by which Seller or any of its property is bound, or result in a breach of or a default under any of the foregoing.

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

3.1.5 There is no pending, or to the knowledge of Seller, threatened action or proceeding affecting Seller before any Governmental Authority that purports to affect the legality, validity or enforceability of this Agreement as in effect on the date of Seller's execution hereof.

3.2 Representations and Warranties of Buyer. Buyer hereby makes the following representations and warranties to Seller:

3.2.1 Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida, and has the legal power and authority to own or lease its properties, to conduct its business, to enter into this Agreement, to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

3.2.2 Except as set forth on Exhibit E, and subject to the satisfaction or waiver of the conditions precedent set out in Section 2.1.2, the execution, delivery and performance by Buyer of this Agreement have been duly authorized by all necessary corporate action, and do not and will not require any consent or approval of Buyer's Board of Directors or shareholders, or any other entity or Governmental Authority, other than those which have been obtained.

3.2.3 The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Agreement by Buyer do not and will not conflict with, or constitute a

breach of or a default under, any of the terms, conditions or provisions of any Legal Requirements, or Buyer's articles of incorporation, charter, by-laws, partnership or limited partnership agreement, or other similar document, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument by which Buyer or any of its property is bound, or result in a breach of or a default under any of the foregoing.

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

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

ARTICLE IV COMMITTED CAPACITY

4.1 Commitment of Committed Capacity. Seller hereby commits to provide Committed Capacity to Buyer in the quantities specified in Exhibit A hereto from sources which may include, at Seller's option, capacity provided by the Orange Facility, the Mulberry Facility, or from other alternate facilities that meet FRCC requirements and are located in an area in which there is available firm transmission between the Buyer's transmission system and any such alternate facility.

ARTICLE V SALE OF CAPACITY AND ENERGY

5.1 Purchase and Sale of Committed Capacity.

5.1.1 As of and after the Commencement Date, Seller agrees to sell, and Buyer agrees to purchase an amount of capacity equal to the Committed Capacity as set forth in Exhibit A in accordance with the terms and provisions of this Agreement.

5.1.2 During the Term, Seller shall not resell to any third party the rights to capacity from the Committed Facilities to the extent that such capacity is needed to meet the Committed Capacity obligation in this Agreement.

5.2 Purchase and Sale of Energy.

5.2.1 Commencing on the Commencement Date and throughout the Term, Buyer shall Schedule and purchase and Seller shall sell and make available the quantities of Energy specified in Exhibit C from any source available to Seller to any or all of the Delivery Points specified in Exhibit B; provided, however, Buyer shall provide

written notice to Seller of Buyer's decision to call the Call Energy by no later than 0800 EPT of the Business Day before the Day in which dispatch of such Call Energy would be Scheduled; provided, further, that Buyer (i) may only request all 25 MWh per hour of the Call Energy for exactly eleven (11) hours over the course of a Day, consistent with the requirements of Exhibit C, or (ii) shall not request Call Energy at all. Buyer shall pay Seller for each MWh delivered to Buyer the price specified in Exhibit C.

5.2.2 Seller shall arrange and be responsible for supplying any and all Scheduled Energy to Buyer at the Delivery Point. Buyer shall arrange and be responsible for receiving Scheduled Energy delivered by Seller in accordance with this Agreement at the Delivery Point. Seller shall be responsible for any costs or charges imposed on or associated with the delivery of Scheduled Energy up to the Delivery Point, including without limitation, control area services, inadvertent energy flows, transmission losses and loss charges relating to the Scheduling and transmission of any such Energy, transmission and ancillary service charges. Buyer shall be responsible for any such costs or charges imposed on or associated with Delivered Energy, at and from the Delivery Point.

5.2.3 As between the parties, Seller shall be deemed to be in exclusive control of Energy prior to the Delivery Point (and responsible for any Claims caused thereby), and Buyer shall be deemed to be in exclusive control of the Delivered Energy at and from the Delivery Point (and responsible for any Claims caused thereby). Title to and risk of loss related to the Delivered Energy shall transfer from Seller to Buyer at the Delivery Point. Seller and Buyer shall each indemnify, defend and hold harmless the other Party from any Claims arising from any act or incident occurring as to any Energy at the time that title to such Energy is vested in the indemnifying Party.

5.2.4 Within ten (10) Days prior to the Commencement Date, each of Buyer and Seller shall designate the Person or Persons with the authority to coordinate the Day-to-Day operations in order for such Party to carry out the terms of this Agreement.

5.3 Seller's Sales Options. In addition to the Energy Scheduled and purchased by Buyer, Seller shall have the options described below to require Buyer to purchase Energy produced by the Committed Facilities and delivered by Seller at the Delivery Point (such Energy the "Put Energy"), subject to the Seller having notified Buyer before 1200 EPT on the Business Day prior to the intended sale of the estimated quantity of Put Energy and duration of the intended sale.

5.3.1 Seller may sell and Buyer shall purchase Put Energy up to the Full Actual Output of the Committed Facilities during scheduled Ramp Periods at the As Available Energy Price in effect at the time of delivery of such Put Energy. Buyer shall have no obligation to provide Seller with any estimate of the As Available Price. The Parties acknowledge that the amount of Put Energy delivered during Ramp Periods, and the schedules provided by Seller for Ramp Periods, are subject to change based on actual plant operations on the Day the Energy is delivered, provided that Ramp Periods for the

Orange and Mulberry Facilities shall not exceed the durations set forth in the definition of "Ramp Period" set forth in Article 1 hereof.

5.3.2 Seller may also sell and Buyer shall purchase Put Energy at the As Available Energy Price in effect at the time of delivery of such Put Energy, up to an aggregate of 24 MWh per hour during periods other than scheduled Ramp Periods. The Parties acknowledge that the amount of Put Energy delivered, and the Schedules provided by Seller for Put Energy, are subject to change based on actual plant operations on the Day the Energy is delivered, provided that the amount of Put Energy delivered pursuant to this Section 5.3.2 shall not exceed 24 MWh per hour.

5.3.3 In addition to Put Energy Seller may sell pursuant to Sections 5.3.1 and 5.3.2, Seller may also sell and Buyer shall purchase as Put Energy at the As Available Energy Price in effect at the time of delivery of such Put Energy, up to an aggregate of 85 MWh per hour on any Day in which Buyer does not purchase Call Energy and up to an aggregate of 110 MWh per hour on any Day in which Buyer does purchase Call Energy; provided, however, that Buyer shall at no time be obligated, in any hour, to purchase in excess of 184 MWh per hour of energy pursuant to this Agreement. The Parties acknowledge that the amount of Put Energy delivered, and the Schedules provided by Seller for Put Energy, are subject to change based on actual plant operations on the Day the Energy is delivered; provided that the amount of Put Energy delivered pursuant to this Section 5.3.3 shall not exceed either 85 MWh per hour or 110 MWh per hour as described above.

5.3.4 In addition to Put Energy which may be sold pursuant to any combination of the sale options described in Sections 5.3.1, 5.3.2 and/or 5.3.3, Seller may offer to sell to Buyer a specific quantity of Energy (such Energy the "Optional Energy") to be delivered during a specific single block of eight (8) hours as set forth below. Such offer shall be made by Seller to Buyer by 0700 EPT on the Business Day prior to the Day Seller desires to sell and deliver such Optional Energy; provided, however, Seller may revise such offer by 0830 EPT on such Business Day if Buyer exercises its right to request Call Energy as provided in Section 5.2.1. Buyer shall promptly notify Seller by 0830 EPT on the Business Day Buyer receives Seller's offer, of the price Buyer is willing to pay for such Optional Energy; provided, however, Buyer shall promptly notify Seller by 0900 EPT on such Business Day if Seller revises its offer of Optional Energy as provided above. By 0900 EPT of the Business Day Seller receives Buyer's bid price, Seller shall notify Buyer of Seller's decision, in its sole discretion, either to sell or to refuse to sell such specified block of Optional Energy to Buyer at Buyer's bid price; provided, however, Seller shall promptly notify Buyer by 0930 EPT on such Business Day of Seller's decision, in its sole discretion, either to sell or to refuse to sell such specified block of Optional Energy to Buyer at Buyer's bid price on any Day in which Seller revises its offer of Optional Energy as provided above. Buyer may elect, in its sole discretion, to offer Seller a price for any other Energy not already being sold to Buyer as Put Energy or Optional Energy. All communications with respect to transactions in Put Energy and Optional Energy shall be by telephone. Buyer and Seller hereby consent and agree to the recording of all such telephone communications.

5.4 PURPA Rights. Seller's and Buyer's obligations under this Agreement are expressly not conditioned on Seller's maintenance of the "qualifying facility" status of any Committed Facility under PURPA and this Agreement shall remain binding upon the Parties without regard to whether any Committed Facility is or remains a "qualifying facility" under PURPA. As of the Commencement Date and for the duration of the Term, Seller hereby waives any right to require Buyer to purchase the capacity of and/or the associated Energy from any Committed Facility pursuant to PURPA or on any basis other than as set forth in this Agreement. Seller shall not be required to maintain any Committed Facility as a Qualifying Facility under PURPA.

5.5 Adjustments Related to the Orange Facility. In the event the TECO Contract is not restructured, then Seller may, at its option, adjust this Agreement as follows: (i) the 74 MW block of Scheduled Energy having a termination date of December 31, 2025, as specified in Exhibit C hereto, shall be reduced by 24 MWh per hour through the termination of the TECO Contract; (ii) the amount of Energy the Buyer shall Schedule and Seller shall deliver pursuant to Section 5.2.1 shall be reduced by 24 MWh per hour; (iii) in no event shall Buyer be required to purchase more than 160 MWh per hour pursuant to Seller's sales options under Section 5.3 hereof; (iv) the applicable Aggregate Capacity Charge for purposes of calculating the Monthly Capacity Payment shall be that which is labeled "Aggregate Capacity Charge Pursuant to Adjustment as Provided by Section 5.5" as shown in Exhibit A hereto; (v) the Orange Contract shall be deemed to be amended without consequence or liability accruing to Orange LP therefor, to the extent that (1) the Committed Capacity, as defined in the Orange Contract, shall be 24 MW only, and (2) Buyer shall be deemed to consent to the assignment of the Orange Contract by Seller to an Affiliate of Seller, provided that such Affiliate shall own or control the Orange Facility; (vi) the Parties shall impose such other amendments upon this Agreement as may be required to conform the rights and obligations of the parties to the Orange Contract to those of the Buyer and Seller under this Agreement without conflict among or breach of either agreement; and (vii) such other modifications and amendments to this Agreement as the Parties hereto may agree.

5.6 Adjustments to Monthly Capacity Payments. If the average Capacity Factor, calculated each Month on a rolling twelve (12) Month basis, is less than ninety-five percent (95%), then for each 1% that the Capacity Factor is less than 95% the Monthly Capacity Payment for the immediately succeeding Month shall be reduced by an amount equal to 1% of the average Monthly Capacity Payment paid by Buyer to Seller over each of the previous twelve (12) Months; provided, however, that if the Monthly Capacity Factor for the previous twelve (12) Month period is less than sixty percent (60%), Buyer may reduce the Monthly Capacity Payment for the succeeding Month to zero; provided, further, that until twelve (12) Months of the Term have elapsed, the average Capacity Factor shall be calculated on a rolling 12 Month basis by assuming a 95% Capacity Factor for the number of Months prior to the Commencement Date required to calculate a twelve (12) Month average. If at the end of the Term the Capacity Factor for the preceding twelve (12) Month period is less than ninety-five percent (95%), the amount by which the Monthly Capacity Payment for the next Month would have been reduced had this Agreement not expired shall be due to Buyer from Seller within thirty (30) Days of the expiration of the Term.

ARTICLE VI
BILLING AND COLLECTIONS

6.1 Capacity Billing and Payment. Buyer shall pay the Monthly Capacity Payment due Seller, without invoice from Seller, by wire transfer on or before the first (1st) Business Day of the month following the Month during and for which the obligation to pay such net Monthly Capacity Payment was incurred. The Parties represent and acknowledge that the Aggregate Capacity Charge for Committed Capacity as set out in Exhibit A hereto, represent discounts of 6.2%, 2.7% and 7.7% from the capacity prices provided for under the Orange Contract, the Royster Contract and the Mulberry Contract, respectively, prior to their amendment and restatement by this Agreement, and that such amendment and restatement also eliminates all obligations of the Parties with respect to the Capacity Accounts as defined by, provided for and accrued under the Contracts.

6.2 Taxes. The price paid to Seller by Buyer for capacity and Energy hereunder includes full reimbursement for, and Seller is liable for and shall pay or cause to be paid, or reimburse Buyer if Buyer shall have paid, all Taxes accruing as to the Delivered Energy sold hereunder prior to the Delivery Point ("Seller's Taxes"). Seller shall indemnify, defend and hold Buyer harmless from any Claims for Seller's Taxes and shall be entitled to any Tax refunds or rebates attributable to such Taxes. The price paid by Buyer to Seller for capacity and Energy hereunder, does not include reimbursement for, and the Buyer is liable for and shall pay, cause to be paid, or reimburse Seller if Seller shall have paid, all Taxes accruing as to the Delivered Energy sold hereunder on or after the Delivery Point, including, without limitation, Taxes imposed by a taxing authority with jurisdiction over Buyer ("Buyer's Taxes"). Buyer shall indemnify, defend and hold Seller harmless from any claims for Buyer's Taxes and shall be entitled to any Tax refunds or rebates attributable to such Taxes. Both Parties shall use reasonable efforts to administer this Agreement and implement the provisions hereof in accordance with their intent to minimize Taxes. Upon request, a Party shall provide a certificate of exemption or other evidence of exemption from any Tax, and each Party agrees to use its reasonable efforts to cooperate with the other in obtaining an exemption and minimizing Taxes payable.

6.3 Payment Statements. As promptly as practicable after the end of each Month, but no later than the last Business Day of the next Month, Buyer shall provide to Seller all data available to Buyer with respect to the quantities of Delivered Energy received by Buyer from Seller or for Seller's account during such preceding Month. A payment invoice for amounts due Seller and Buyer hereunder for Delivered Energy sold to Buyer during the applicable Month shall be prepared by Seller and delivered to Buyer no later than the tenth (10th) Day after Seller receives the data from Buyer, or if such tenth (10th) Day is not a Business Day, not later than the first Business Day thereafter. Each Monthly invoice shall contain a statement explaining in reasonable detail how the invoice was calculated. The invoice shall include amounts due and payable to Seller for the Monthly Energy Payment and any Put Energy and Optional Energy, if any, purchased and received by Buyer during the prior Month, and shall reflect any set offs available to Buyer under the provisions of this Agreement, as calculated by Seller. Buyer's payment for the amount due Seller for the Monthly Energy Payment and any Put Energy and Optional Energy, or Seller's payment for the amount due Buyer, as the case may be, pursuant to a Monthly invoice shall be made in immediately available funds through electronic

transfer within ten (10) Days after receipt of the invoice. A Monthly invoice not timely paid shall accrue interest daily at the Interest Rate. If the invoice is an estimated bill, any adjustments required shall be made in the ensuing Month's invoice.

6.4 Billing Disputes and Final Accounting.

6.4.1 If Buyer questions or contests the amount or propriety of any Monthly invoice submitted by Seller, Buyer shall by the due date for such Monthly invoice provide Seller with written notice of the amount of such Monthly invoice that Buyer claims not to be due and payable, setting forth in reasonable detail the basis therefor, to which Seller shall respond in writing either agreeing with Buyer's claim or disputing the same. All invoiced amounts shall be paid by Buyer in accordance with Section 6.4, without regard to any question or contest raised by Buyer with respect to a Monthly invoice.

6.4.2 In the event that Buyer questions or contests the correctness of any Monthly invoice, Seller shall promptly review the questioned charge or credit and shall notify Buyer of any error in Seller's determination of amounts owed by Buyer or to Buyer and the amount required to be paid in respect of such redetermination. Not later than the twentieth (20th) Business Day after notice by Seller as to the amount of any adjustment to a questioned or contested Monthly invoice, the Party owing any amount as a result of such adjustment shall make payment to the other Party in immediately available funds. If Buyer disagrees with Seller's resolution of a question or contest, then Buyer may submit the matter to senior officers of Buyer and Seller to discuss the matter and attempt to resolve the dispute. Buyer shall have until the end of ninety (90) Days after its receipt of any Monthly invoice to question or contest the correctness of such invoice, after which all such Monthly invoices shall be conclusively deemed accurate and correct.

6.5 Interest. All overpayments or underpayments shall be refunded by the Party receiving such overpayment, or paid by the Party making such underpayment, to the other Party, with interest at the Interest Rate from the date that such overpayment was received or such underpayment was made, to the date that such overpayment or underpayment is corrected.

6.6 Billing and Payment Records. Each Party will, until the end of one (1) year after its receipt of any invoice, make available to the other Party upon written request, and each Party may audit, such books and records of the other Party as are reasonably necessary to calculate the Monthly Capacity Payments and the Monthly Energy Payments shown on such invoice and thereby to verify the accuracy of the amounts billed by Buyer and the information provided by Buyer to Seller. The Parties shall maintain their respective books and records in accordance with generally accepted accounting principles applicable from time to time.

ARTICLE VII
MEASUREMENT

7.1 Meters. Seller shall use commercially reasonable efforts to secure all necessary authority for Buyer to install, operate and maintain, at Buyer's election and sole expense, appropriate equipment for metering and measuring the quantities of Energy, if any,

generated by each Committed Facility. Whether or not Buyer has installed such equipment, Seller shall, consistent with Good Utility Practice, provide Buyer with all usual and customary documentation of the quantities of Delivered Energy from each source from which Seller obtains such Energy, and payments due Seller shall be calculated on the basis of such documentation unless otherwise agreed by the Parties. The Parties acknowledge that the Delivered Energy will be measured at the Delivery Point.

7.2 Calibration of Metering Equipment. Buyer shall periodically calibrate and adjust, if necessary, all metering and measurement devices used for purposes of measuring and metering the output of the Mulberry Facility and the Orange Facility, so long as such facilities are Committed Facilities. Either Party may require that such equipment be tested for accuracy at any reasonable time, by giving a minimum of seven (7) Days prior written notice of such a test. If such equipment proves to be accurate within a two percent (2%) tolerance level, the expense of such test shall be borne by the requesting party, otherwise the non-requesting Party shall pay such expense. If any metering or measurement device is found to be inaccurate, and the period of inaccurate registry can be determined, the readings of such device shall be corrected, and the corrected readings shall be used as the basis for redetermining the deliveries of Energy during the period of inaccurate registry. When the period of inaccurate registry cannot be determined, such period shall be assumed to be the period between the time it is discovered that such device is inaccurate and the correction of such device, plus the last half of the period between such discovery and the most recent prior calibration, testing or proving of such metering or measurement device (but in no event for a period longer than one (1) year). In any case, metering or measurement devices which have been found to be registering inaccurately shall be adjusted promptly to register correctly, or shall be replaced with accurate equipment. All calibrating, adjusting and testing of meters shall be performed after giving five (5) Business Days prior notice to the other Party and allowing the other Party to witness the calibration, adjustment, or testing.

ARTICLE VIII FORCE MAJEURE

8.1 Definition of a Force Majeure Event. For the purposes of this Agreement, a "Force Majeure Event" as to a Party means any occurrence, nonoccurrence or set of circumstances beyond the reasonable control of the affected Party and not caused by such Party's negligence that renders such Party unable to perform its obligations under this Agreement, in whole or in part, including, without limitation, natural disasters, lightning, flood, ice, earthquake, windstorm, eruption, fire, explosion, invasion, civil war, insurrection, sabotage, vandalism, military or usurped power, act of God, act of a public enemy, terrorism, lockouts, blockages, riots, war, or action of a court or public authority, and accidents to equipment or machinery which affects all or a part of a Committed Facility; provided, that accidents to equipment or machinery comprising all or a part of a facility, other than a Committed Facility, that is a source from which Seller obtains Energy for sale to Buyer hereunder shall not be deemed a Force Majeure Event with respect to, nor excuse Seller's obligation to sell and deliver, Energy as Scheduled by Buyer in accordance with this Agreement.

8.2 No Breach or Liability. Either Party shall be excused from performance (other than its accrued obligations to make payments of money) and shall not be construed to be

in default in respect of any obligation hereunder, from and after the date and time that the affected Party notifies the other Party of the occurrence of a Force Majeure Event, for so long as (but in no event longer than thirty (30) Days) and to the extent that such Force Majeure Event renders the affected Party unable to perform its obligations to the other Party, in whole or in part; provided, however, that no Force Majeure Event affecting Seller's ability to perform its obligations hereunder to make capacity available to Buyer shall excuse Buyer's obligation to make Monthly Capacity Payments to Seller, or after thirty (30) Days excuse Seller's obligation to supply Energy in accordance with the provisions of Section 5.2.1.

8.3 Mitigation. Following the occurrence of a Force Majeure Event, the affected Party shall:

8.3.1 Give the other Party notice thereof, followed by written notice if the first notice is not written, as promptly as possible after such Party becomes aware of such Force Majeure Event, describing the particulars of such Force Majeure Event;

8.3.2 Use commercially reasonable efforts to remedy its inability to perform as soon as practicable; provided, however, that the settlement of strikes, lockouts or other labor disputes shall be entirely within the discretion of the Party having the difficulty; and

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

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

ARTICLE IX EVENTS OF DEFAULT

9.1 Events of Default. An "Event of Default" shall mean with respect to a Party ("Defaulting Party"):

9.1.1 The failure by the Defaulting Party to make, when due, any payment required hereunder if such failure is not remedied within ten (10) Business Days after written notice of such failure is given to the Defaulting Party by the other Party; or

9.1.2 Any representation or warranty made by the Defaulting Party herein shall prove to have been false or misleading in any material respect when made and is not remedied within 30 Days after written notice of such false or misleading representation or warranty is given to the Defaulting Party by the other Party; or

9.1.3 The failure by the Defaulting Party to perform any material covenant set forth in this Agreement (other than as described in Section 9.1.1 above and Section 9.3.1 below) that is not excused by a Force Majeure Event and is not remedied

within 30 Days after written notice of such failure is given to the Defaulting Party by the other Party; or

9.1.4 The Defaulting Party (i) is dissolved (other than pursuant to a consolidation or merger), (ii) becomes insolvent or is unable to pay its debts as they become due, (iii) makes an assignment, arrangement or composition with or for the benefit of its creditors, (iv) institutes or has instituted against it a proceeding seeking judgment of insolvency, bankruptcy or any other relief under bankruptcy or insolvency law or other similar law affecting creditors' rights, or in the event of a petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for its winding up or liquidation, or (B) is not dismissed, discharged, stayed or restrained, in each case within sixty (60) Days after the institution or presentation thereof, (v) has a resolution passed for its winding up, official management or liquidation (other than pursuant to a merger or consolidation), (vi) seeks to become subject to the appointment of a receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets, (vii) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within sixty (60) Days after any such event, or (viii) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events described in clauses (i) through (vii) inclusive, or takes any action in furtherance of or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts or events.

9.2 Rights Under Agreement.

(a) Upon the occurrence and during the continuation of any Event of Default, the Party not in Default shall have a right to deliver a notice of intent to terminate this Agreement to the other Party. At the expiration of 60 Days following the delivery of notice of intent to terminate, the Party delivering such notice may terminate this Agreement by giving notice thereof to the other Party, whereupon this Agreement shall immediately terminate; provided, however, this Agreement may not be so terminated if the Defaulting Party has cured such Event of Default during such 60 Day period. The non-Defaulting Party may suspend performance during and for so long as an Event of Default pursuant to Section 9.1.1 has occurred and is continuing.

(b) Except as otherwise expressly provided herein, and in addition to its right to suspend and or terminate this Agreement, each Party reserves to itself all rights, counterclaims and defenses that it is or may be entitled to, at law or in equity arising out of or in connection with any Event of Default.

9.3 Remedies with Respect to Failure to Deliver Energy. With respect to Seller's failure to deliver Energy as described below, the Parties agree that the following remedies shall be applicable:

9.3.1 Absent a good faith dispute between the parties as to Seller's obligation to supply Energy or Buyer's right to receive such Energy, if Seller fails, for reasons other than due to Seller's suspension of performance pursuant to Section 9.2(a), to deliver Energy as Scheduled in accordance with Exhibit C during any period when Energy produced by a Committed Facility (in an amount sufficient to eliminate the failure) is being sold to any Person other than Buyer where such sale is not made pursuant to a requirement of a Governmental Authority, then Seller shall pay to Buyer as liquidated damages an amount equal to \$2,500.00 (in 2001 dollars) per MWh plus Buyer's highest cost purchase of Energy (in dollars per MWh) in each hour during the period of such failure to deliver Energy, less the Energy Price, all multiplied by two, and the product thereof, multiplied by the number of MWh that Seller failed to sell and deliver to Buyer in response to Buyer's demand during the continuance of such failure; provided, however, if Seller is providing Energy to Buyer from an alternate source while selling Energy from a Committed Facility to a Person other than Buyer for reasons other than pursuant to a requirement of a Governmental Authority, and such alternate source is no longer available, Seller shall, (i) as soon as practicable after notice by Buyer, redirect to Buyer the Energy produced by the Committed Facility and (ii) for each hour until the Energy produced by the Committed Facility is redirected to Buyer, pay liquidated damages to Buyer in an amount equal to Buyer's highest cost purchase of Energy (in dollars per MWh) for such hour less the Energy Price. Seller will exercise commercially reasonable efforts to provide Energy only from reliable alternative sources. The amount (\$2,500.00) set forth above shall be adjusted each calendar year by the Annual Adjustment Factor. For purposes of clarification, Buyer's sole and exclusive remedy for Seller's failure to deliver Energy as provided in Exhibit C shall be to reduce the Capacity Factor, as provided in Section 5.6, except as provided above in this Section 9.3.1.

9.3.2 For purposes of this Section 9.3, Buyer's highest cost for purchased Energy shall be the weighted average cost of the number of MWh per hour that Seller failed to deliver, expressed in dollars per MWh, of Buyer's highest cost purchase, including but not limited to emergency purchases, during the period affected by a particular failure to deliver Energy as described in Section 9.3.1, for a quantity of Energy equal to the quantity of Energy which Seller failed to sell and deliver to Buyer in response to Buyer's demand during such failure; provided, however, if Buyer was forced to curtail load Buyer's highest cost shall be determined based on the last ten (10) MWh per hour purchased by Buyer to replace the MWh per hour that Seller failed to deliver, expressed in dollars per MWh. Such calculation shall not include demand charges or penalties.

9.3.3 For any failure to deliver Energy as Scheduled in accordance with Exhibit C for which liquidated damages is herein provided, such remedy or measure of damages shall be the sole and exclusive remedy therefor, the obligor's liability shall be limited as set forth in such provision, and all other remedies or damages at law or in equity are waived; provided, however, that if, during a failure to deliver Energy as Scheduled in accordance with Exhibit C, Seller sells Energy from Committed Capacity to any Person other than Buyer in lieu of the delivery of Scheduled Energy to Buyer, in willful or reckless disregard of Seller's obligations to Buyer, such failure to deliver shall be for all purposes a material breach of Seller's obligations to Buyer under this

Agreement, and Buyer shall have no right to receive liquidated damages on account of such material breach. Buyer may take whatever action and shall have such remedies for and in respect of such material breach as are available to it, at law or in equity.

9.4 Remedies for Events of Default. With respect to any Event of Default that is not a failure to deliver Energy Scheduled in accordance with Exhibit C, the Defaulting Party shall be liable to the other Party for any and all costs, expenses, damages and losses suffered or incurred by such other Party in connection with such Event of Default. In no event, however, shall a Party be liable for consequential, incidental or indirect damages in tort, contract, under any indemnity provision or otherwise. It is the intent of the Parties that the limitations herein imposed on remedies and the measure of damages shall be without regard to the cause or causes thereof, including, without limitation, the negligence of any Party, whether such negligence is sole, joint, concurrent, active or passive.

9.5 Nature of Liquidated Damages. To the extent that any damages required to be paid hereunder are liquidated, the Parties acknowledge that such damages are in lieu of actual damages and are reasonable in light of the anticipated harm and the difficulty of estimation or calculation of actual damages. Each Party hereby waives any defense as to the validity of any liquidated damages stated in this Agreement as they may appear on the grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages.

ARTICLE X INDEMNIFICATION AND LIMITATION OF LIABILITY

10.1 Indemnity. Each Party (the "Indemnifying Party") expressly agrees to indemnify and defend against and hold the other Party (the "Indemnified Party"), and its partners, shareholders, members, directors, officers, employees and agents (including, but not limited to, Affiliates and contractors and their employees), harmless from all Claims in any manner directly or indirectly connected with or growing out of the generation, transmission or distribution of Delivered Energy on its own side of the Delivery Point, or arising out of the Indemnifying Party's breach of this Agreement, or out of a tort committed by the Indemnifying Party (including Claims based on negligence and strict liability), except as to any such Claim that arises from the gross negligence or willful misconduct of the Party seeking indemnification. This Section 10.1 shall survive the termination or expiration of this Agreement and the performance by the Parties of their obligations hereunder.

10.2 Indemnification Procedures. Each Indemnified Party shall promptly notify the Indemnifying Party of any Claim in respect of which the Indemnified Party is entitled to be indemnified under this Article 10. Such notice shall be given as soon as is reasonably practicable after the Indemnified Party becomes aware of each Claim; provided, however, that failure to give prompt notice shall not adversely affect the right of a Party for indemnification hereunder except to the extent the Indemnifying Party's ability to contest any Claim by any third party is materially adversely affected. The Indemnifying Party shall have the right, but not the obligation, at its expense, to contest, defend, litigate and settle, and to control the contest, defense, litigation and/or settlement of, any Claim by any third party alleged or asserted against any Indemnified Party arising out of any matter in respect of which such Indemnified Party is

entitled to be indemnified hereunder. The Indemnifying Party shall promptly notify such Indemnified Party of its intention to exercise such right set forth in the immediately preceding sentence and shall reimburse the Indemnified Party for the reasonable costs and expenses paid or incurred by it prior to the assumption of such contest, defense or litigation by the Indemnifying Party. If the Indemnifying Party exercises such right and the Indemnified Party notifies the Indemnifying Party that it desires to retain separate counsel in order to participate in or proceed independently with such contest, defense or litigation, such Indemnified Party may do so at its own expense. If the Indemnifying Party fails to exercise its rights set forth in the third sentence of this Section 10.2, then the Indemnifying Party will reimburse the Indemnified Party for its reasonable costs and expenses incurred in connection with the contest, defense or litigation of such Claim. No Indemnified Party shall settle or compromise any Claim in respect of which the Indemnified Party is entitled to be indemnified under this Article 10 without the prior written consent of the Indemnifying Party; provided, however, that such consent shall not be unreasonably withheld by the Indemnifying Party.

10.3 No Liability to Third Party. Nothing herein shall create, or be interpreted as creating, any standard of care with reference to any duty or liability to any person not a Party hereto.

ARTICLE XI ASSIGNMENT

11.1 Assignment and Assumption of Obligations. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may not be unreasonably withheld; provided, however, that either Party may, without the consent of the other Party and without relieving itself from liability hereunder, (i) transfer, pledge, encumber or assign this Agreement or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer or assign this Agreement to an Affiliate of similar or better creditworthiness or to any Person or entity succeeding to all or substantially all of the assets of such Party; provided, further, that in each such case, this Agreement shall be binding upon any such assignee, such assignee shall agree in writing to be bound by the terms and conditions hereof and each of the representations of a Party shall be true with respect to such Party's assignee as of the effective date of such assignment.

ARTICLE XII MISCELLANEOUS PROVISIONS

12.1 Amendments. This Agreement may be amended only by a written instrument duly executed by each of Buyer and Seller.

12.2 Binding Effect. This Agreement and any extension shall inure to the benefit of and shall be binding upon the Parties and their respective permitted successors and assigns.

12.3 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

12.4 Notices. Any notice, request, demand, statement, or payment provided for in this Agreement shall be confirmed in writing and shall be made as specified below; provided, however, that notices of interruption and Scheduling communications may be provided orally, effective immediately and upon request, confirmed in writing.

Unless otherwise acknowledged earlier by the Party, a notice sent by facsimile transmission or other electronic means or by same-Day delivery service shall be deemed to have been received by the close of the Business Day on which such notice was transmitted; provided, however, that if said notice is not transmitted or delivered prior to 4:00 p.m. EPT of a Business Day, it shall be deemed delivered on the next Business Day. Notice sent by express courier service or overnight mail service shall be deemed to have been received by the close of the Business Day on which such notice was delivered to the other Party's premises. The addresses of the Parties are as follows:

To Seller:

Notices and Correspondence:

Cedar Brakes IV, LLC
c/o El Paso Merchant Energy, L.P.
Attention: President
1001 Louisiana Street
Houston, TX 77002
713-420-3559

Cedar Brakes IV, LLC
c/o AEP Energy Services, Inc.
Attention: Senior Vice President-
Business Development
One Riverside Plaza, 30th Floor
Columbus, Ohio 43215

with a copy to:

El Paso Corporation
Vice President and Associate
General Counsel
1001 Louisiana Street
Houston, Texas 77002
713-420-4601

American Electric Power
Service Corporation
Assistant General Counsel
One Riverside Plaza
Columbus, Ohio 43215

Payments:

Mike Craig
Director of Energy Accounting
El Paso
1001 Louisiana Street
Houston, TX 77002
Fax: 713-420-2108, phone 713-420-4864

To Buyer:

Notices and Correspondence:

Florida Power Corporation
Attention: Cogeneration Manager
200 Central Avenue, BT9G

St. Petersburg, Florida 33701
(727) 820-4523

Invoices and Payments:

Florida Power Corporation
Attention: Manager, Back Office
PEB 10A
P.O. Box 1551
Raleigh, NC 27602
(919) 546-3019

or to such other address as may be designated by the Parties.

12.5 Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties concerning the purchase and sale of the Committed Capacity and related Energy, and supersedes any other previous agreements concerning the Committed Capacity and related Energy between the Parties. The Parties have entered into this Agreement in reliance upon the representations and mutual undertakings contained herein and not in reliance upon any oral or written representations or information provided by one Party to the other Party not contained or incorporated herein.

12.6 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida, with venue in Pinellas County, Florida, except that conflicts-of-law principles shall not be invoked in order to apply the laws of any other state or jurisdiction.

12.7 Waiver. The failure of either Party to enforce at any time any of the provisions of this Agreement, or to require at any time performance by the other Party of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor shall it in any way affect the validity of this Agreement or any part hereof, or the right of such Party hereafter to enforce every such provision. No modification or waiver of all or any part of this Agreement shall be valid unless it is reduced to a writing that expressly states that the Parties hereby agree to a waiver or modification as applicable, and is signed by both Parties.

12.8 Headings. The headings contained in this Agreement are used solely for convenience and do not constitute a part of the Agreement between the Parties, and shall not be used to aid in any manner in the construction of this Agreement.

12.9 No Third-Party Beneficiaries. There are no third-party beneficiaries of this Agreement. This Agreement is intended solely for the benefit of the Parties. Nothing in this Agreement shall be construed to create any duty, obligation, or liability to any entity not a Party to this Agreement.

12.10 Agency. This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

12.11 Severability. If any term or provision of this Agreement or the application thereof to any Person, entity, or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to Persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12.12 Confidentiality. The Parties agree that all information relating to this Agreement and the transactions contemplated hereby shall be kept confidential. Such obligation of confidentiality shall extend to all such information, whether exchanged orally or in written or electronic form, and whether or not designated at the time exchanged as confidential. Each Party shall be permitted to disclose confidential information to (i) Affiliates of the disclosing Party or (ii) consultants and advisors to such Affiliates of the disclosing Party who need to know such information in connection with the performance of their duties or services for such Affiliates or for the disclosing Party or (iii) Lenders to such Affiliates or the disclosing Party, and agrees to notify such Persons of the confidential nature of such information and to be responsible for any unauthorized disclosure of such information by such Persons. Information shall not be deemed to be confidential if it (x) was in the public domain prior to the date hereof, (y) becomes publicly available after the date hereof other than as a result of the unauthorized disclosure thereof by a Party or by an officer, director, employee, agent or Affiliate of a Party, or (z) is required to be disclosed pursuant to applicable laws or regulations or pursuant to administrative or judicial process and all reasonable attempts to obtain a protective or other order from the applicable Governmental Authority prohibiting or limiting disclosure of all confidential information has been unsuccessful. Notwithstanding anything to the contrary in this Section, the Parties shall at all times take reasonable steps to maintain the confidentiality of all the commercial terms and details of this Agreement; provided, however, that Buyer may file this Agreement and any summaries of this Agreement with the Florida Public Service Commission without seeking confidential treatment thereof so long as Buyer does seek confidential treatment of certain elements, provisions, prices and terms of this Agreement designated by Seller as Proprietary Information.

12.13 Winding Up Arrangements. Any final monies or other charges due and owing by a Party to the other Party shall be paid, any corrections or adjustments to payments previously made shall be determined, and any refunds due to either Party shall be made, within sixty (60) Days of the expiration of the Term. Any imbalances in accounts or deliveries shall be corrected to zero within thirty (30) Days of the expiration of the Term.

12.14 Preparation of Agreement. The Parties stipulate and agree that this Agreement shall be deemed for all purposes as having been prepared through the joint effort of the Parties, and shall not be construed against one Party or the other as a result of the preparation, submittal or other event of drafting, negotiation or execution hereof.

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

FLORIDA POWER CORPORATION

By:
Title:

CEDAR BRAKES IV, LLC

By:
Title:

EXHIBIT A TO MASTER AGREEMENT
COMMITTED CAPACITY, AGGREGATE COMMITTED CAPACITY AND AGGREGATE CAPACITY CHARGE

CONTRACT	MULBERRY	ROYSTER	ORANGE				
TERM	08/08/2024	08/09/2009	12/31/2025				
CAPACITY MW	79.2	30.8	74	Aggregate Committed Capacity	Aggregate Capacity Charge	Aggregate Committed Capacity Pursuant to Adjustment as Provided by Section 5.5	Aggregate Capacity Charge Pursuant to Adjustment as Provided by Section 5.5
CAPACITY CHARGES	\$/kW-mo	\$/kW-mo	\$/kW-mo	MW	\$/kW-mo	MW	\$/kW-mo
2002	\$ 27.15	\$ 27.38	\$ 23.75	184	\$ 25.82	160	\$ 26.13
2003	\$ 28.26	\$ 28.78	\$ 24.93	184	\$ 27.01	160	\$ 27.32
2004	\$ 29.42	\$ 30.24	\$ 26.17	184	\$ 28.25	160	\$ 28.56
2005	\$ 30.78	\$ 31.79	\$ 27.48	184	\$ 29.62	160	\$ 29.94
2006	\$ 32.35	\$ 33.40	\$ 28.86	184	\$ 31.12	160	\$ 31.46
2007	\$ 34.00	\$ 35.11	\$ 30.29	184	\$ 32.69	160	\$ 33.05
2008	\$ 35.73	\$ 36.91	\$ 31.81	184	\$ 34.35	160	\$ 34.73
2009 –through 8/09/2009	\$ 37.55	\$ 38.79	\$ 33.40	184	\$ 36.09	160	\$ 36.49
8/10/2009 through 12/31/2009	\$ 37.55		\$ 33.40	153.2	\$ 35.55	129.20	\$ 35.95
2010	\$ 39.46		\$ 35.09	153.2	\$ 37.35	129.20	\$ 37.77
2011	\$ 41.47		\$ 36.83	153.2	\$ 39.23	129.20	\$ 39.68
2012	\$ 43.60		\$ 35.66	153.2	\$ 39.77	129.20	\$ 40.53

2013	\$ 45.82		\$ 37.49	153.2	\$ 41.79	129.20	\$ 42.59
2014	\$ 48.15		\$ 39.40	153.2	\$ 43.92	129.20	\$ 44.76
2015	\$ 50.61		\$ 41.41	153.2	\$ 46.17	129.20	\$ 47.05
2016	\$ 53.19		\$ 43.53	153.2	\$ 48.53	153.2	\$ 48.53
2017	\$ 55.91		\$ 45.74	153.2	\$ 51.00	153.2	\$ 51.00
2018	\$ 58.76		\$ 48.08	153.2	\$ 53.60	153.2	\$ 53.60
2019	\$ 61.75		\$ 50.52	153.2	\$ 56.32	153.2	\$ 56.32
2020	\$ 64.90		\$ 53.10	153.2	\$ 59.20	153.2	\$ 59.20
2021	\$ 68.21		\$ 55.82	153.2	\$ 62.22	153.2	\$ 62.22
2022	\$ 71.69		\$ 58.65	153.2	\$ 65.39	153.2	\$ 65.39
2023	\$ 75.34		\$ 61.66	153.2	\$ 68.73	153.2	\$ 68.73
2024 through 8/8/2024	\$ 79.19		\$ 64.80	153.2	\$ 72.24	153.2	\$ 72.24
8/9/2024 through 12/31/2024			\$ 64.80	74	\$ 64.80	74	\$ 64.80
2025			\$ 68.07	74	\$ 68.07	74	\$ 68.07

The sole purpose for reporting the individual capacity charges associated with each contract is for the operative understanding of computing the Aggregate Capacity Charges.

**EXHIBIT B TO MASTER AGREEMENT
DELIVERY POINTS**

The Delivery Point(s) for all Energy shall include, without limitation, the interconnection of each of the Orange Facility and Mulberry Facility within the Buyer's transmission system, and any other point within Buyer's control area, including any point or points of delivery between Buyer and other utilities, (all as of the Commencement Date). Buyer's control area is defined as the electric power system consisting of generating plants in Florida to which a common automatic generation scheme is applied.

**EXHIBIT C TO MASTER AGREEMENT
ENERGY SCHEDULES**

MWh/hr of Energy	2001 Energy Price per MWh**	April 1 through October 31 (hour ending)	November 1 through March 31 (hour ending)	Termination Date
74	\$17.62	1200 through 2200 Buyer shall Schedule and take the Energy	1000 through 2200 Buyer shall Schedule and take the Energy	12/31/2025
25	\$14.01	1300 through 1700 Buyer shall Schedule and take the Energy	On any of 16 Days during this period, Buyer may exercise its right to a Day ahead call for Energy and Schedule for a total of eleven (11) hours on such Day that the call is exercised; but in any event, Buyer shall Schedule such Energy in no more than two blocks which blocks shall be no more than five (5) hours apart (the "Call Energy")*	08/08/2024
54	\$14.01	1200 through 2200 Buyer shall Schedule and take the Energy	0700 through 1200 and 1800 through 2200, Buyer shall Schedule and take the Energy unless Buyer Schedules the Call Energy, in which case this Energy shall be delivered at the same time as the Call Energy	08/08/2024
31	\$14.01	1200 through 2200 Buyer shall Schedule and take the Energy	0700 through 1200 and 1800 through 2200, Buyer shall Schedule and take the Energy unless Buyer Schedules the Call Energy, in which case this Energy shall be delivered at the same time as the Call Energy	08/09/2009

Note: All Schedules are additive.

*Scheduled no later than 0800 EPT of the Business Day before the Day of dispatch.

The price for energy shall be as stated above for 2001, escalating each year at a rate of two percent (2%). Alternatively, at Seller's option, to be exercised by written notice to Buyer at any time prior to the Commencement Date, the price for Energy for 2002 and for the remainder of the Term thereafter shall be equal to the product of (i) the average monthly inventory chargeout price per MMBtu of fuel burned at Crystal River Pulverized Coal Plant Units 1 & 2 multiplied by (ii) (a) 9.83 MMBtu/MWh for the **seventy-four (74) MWh/hour of Energy terminating on December 31, 2025, (b) 7.864 MMBtu/MWh for the **twenty-five (25) MWh/hour and fifty-four (54) MWh/hour** blocks of Energy terminating on August 8, 2024 and (c) 7.864 MMBtu/MWh for the **thirty-one (31) MWh/hour** of Energy terminating on August 9, 2009.

**EXHIBIT D TO MASTER AGREEMENT
SELLER'S REQUIRED AND UNOBTAINED REGULATORY AUTHORIZATIONS**

(TO COME)

[205]

**EXHIBIT E TO MASTER AGREEMENT
BUYER'S REQUIRED AND UNOBTAINED REGULATORY AUTHORIZATIONS**

(TO COME)

[FPSC]

**EXHIBIT F TO MASTER AGREEMENT
FORM OF OPINION OF COUNSEL**

FLORIDA POWER CORPORATION LETTERHEAD

Date

Cedar Brakes IV, LLC
1001 Louisiana Street – Suite 800
Houston, TX 77002

Ladies and Gentlemen:

I am Vice President and General Counsel of Florida Power Corporation, a Florida corporation ("Florida Power"), and render the opinions expressed below in connection with that certain Master Agreement to Amend and Restate Contracts for the Purchase of Firm Capacity and Energy dated as of _____, 2002 (the "Master Contract"), by and between Florida Power and Cedar Brakes, Orange LP and Polk LP, which affects the restructuring (the "Transaction") of the obligations of Florida Power to purchase and pay for, and the obligations of Cedar Brakes, Orange LP and Polk LP to sell and make available Energy and Capacity to Florida Power, under and pursuant to the Contracts. Terms defined in the Master Contract and not otherwise defined in this opinion letter are used herein as defined in the Master Contract.

In rendering the opinions expressed below, I have examined executed copies of the Master Contract, the _____ and the _____ (collectively the "Transaction Documents"), the Articles of Incorporation of Florida Power, the Bylaws of Florida Power, the resolutions of the board of directors of Florida Power approving the execution and delivery by Florida Power of the Transaction Documents, and such other documents and materials as I deem necessary or appropriate in order to express such opinions.

In my examination, I have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to me as originals and the conformity with authentic original documents submitted to me as copies. When relevant facts were not independently established, I have relied upon representations made in or pursuant to the Transaction Documents and other information provided by representatives of Florida Power. I have also assumed that all of the terms and conditions of or relating to, the Transaction are correctly and completely embodied in the Transaction Documents.

In rendering the opinions expressed below, I have assumed, with respect to all documents referred to in this opinion letter, that:

(i) such documents have been duly authorized by, have been duly executed and delivered by, and constitute legal, valid, binding and enforceable obligations of Cedar Brakes, Orange LP and/or Polk LP, as applicable;

(ii) all signatories to such documents acting on behalf of any of Cedar Brakes, Orange LP and Polk LP have been duly authorized with respect to the execution and delivery thereof; and

(iii) each of Cedar Brakes, Orange LP and Polk LP is duly organized and validly existing and has the power and authority (corporate or other) to execute and deliver, and perform the obligations provided for in and pursuant to, such documents.

Based on and subject to the foregoing, and subject also to the comments and qualifications set forth below, and having considered such questions of law as I have deemed necessary as a basis for the opinions expressed below, I am of the opinion that:

1. Florida Power is a corporation validly existing and in good standing under the laws of the State of Florida;

2. Florida Power has the requisite corporate power and authority to execute and deliver the Transaction Documents and to consummate the transactions contemplated thereby;

3. The execution and delivery by Florida Power of the Transaction Documents and the consummation of the transactions contemplated thereby have been duly authorized by all necessary action of the board of directors of Florida Power; and

4. Each Transaction Document has been duly executed and delivered by a duly authorized officer of Florida Power and constitutes the valid, legal and binding obligation of Florida Power, enforceable in accordance with its terms (except insofar as the enforceability of such document may be limited by bankruptcy, insolvency, similar laws affecting the rights of creditors generally, the general principles of equity and the requirements of good faith and fair dealing, as to which I express no opinion).

The foregoing opinions are subject to the following comments and qualifications: The enforceability of provisions in the Transaction Documents to the effect that terms may not be waived or modified except in writing may be limited under circumstances.

I am a member of the State Bar of Florida and the foregoing opinions are limited to the laws of the State of Florida and the federal laws of the United States of America. No opinions beyond those stated herein may be implied or inferred.

This opinion letter speaks only as of the date hereof; I undertake no obligation to advise you of facts which may hereafter come to my attention or changes in the law occurring

after the date of this opinion letter which might affect the opinions expressed herein.

This opinion letter is provided to you by me in my capacity as General Counsel of Florida Power solely in connection with the Transaction. This opinion letter may not be relied upon by you for any other purpose or relied upon or furnished to any other individual or entity without, in each instance, my prior written consent.

Very truly yours,

Kenneth E. Armstrong

EXHIBIT G
TO MASTER AGREEMENT ARBITRATION PROCEDURE
FOR DETERMINING A NEW AS AVAILABLE ENERGY PRICE

Within thirty (30) Days after (i) the last exchange of lists of price reference lists, when the Parties have been unable to determine an As Available Energy Price pursuant to the procedures for such purpose set out in the Agreement or (ii) Buyer indicates that it will not agree to an alternate facility becoming a Committed Facility, then in the event of (i) each Party shall serve on the other Party a notice (a "Decision Notice") setting forth the price reference (including the pricing point, and the Delivery Point) that such Party wishes the Arbitrator to choose as the As Available Energy Price, and in the event of (ii) Seller may serve on Buyer a notice of its intent to submit the dispute to arbitration.

Within ten (10) Days after the date on which Decision Notices have been delivered, the Parties shall attend and participate in a meeting (the "Meeting") at a mutually agreeable time and place to discuss fully the contents of the respective Decision Notices, and based on such discussion to determine whether either or both Parties wish to modify their Decision Notice in any way. Any such modification shall be fully disclosed by the Party wishing to make it to the other Party at the Meeting, so that when a Party finalizes its Decision Notice it shall do so with full knowledge of the content of the other Party's Decision Notice. The finalization of the Decision Notices shall occur at the Meeting unless by mutual agreement the Parties agree to participate in one or more additional Meetings for such purpose.

It is the intent of the Parties that the Arbitration be conducted by an individual who is knowledgeable and experienced in the pricing and sale of electric energy at wholesale (the "Arbitrator"). Each Party shall appoint, within fifteen (15) Days after the Meeting or after Seller's delivery of a notice of intent to arbitrate, one (1) individual, who in turn will appoint a single individual to serve as Arbitrator. In the event that the persons selected by the Parties are unable to agree upon an individual to act as arbitrator within thirty (30) Days, then the Arbitrator shall be selected in accordance with the rules of the American Arbitration Association. Upon selection of the Arbitrator, such Arbitrator shall within ninety (90) Days after his or her selection issue a final decision. In the event of an arbitration regarding the As Available Energy Price, the Arbitrator shall be required to adopt the price reference set forth in one of the Parties' final Decision Notice, and shall have no power whatsoever to reach any other decision. The Arbitrator shall adopt the Decision Notice that in his or her judgment more accurately and fairly reflects the price of firm Energy delivered in Buyer's control area.

The Arbitrator shall charge his or her costs and fees equally to each Party.

The Parties agree that once a matter is submitted to and determined by arbitration in accordance with this procedure, the decision of the Arbitrator shall be final and binding on the Parties, and that neither Party shall seek to have the matter determined in any manner other than pursuant to the above described Arbitration; provided, that nothing herein shall prevent the

Parties from mutually agreeing on an As Available Energy Price an any time during or after the completion of the Arbitration.

DC1 - 162873.03

MASTER AGREEMENT TO AMEND AND RESTATE CONTRACTS FOR THE

PURCHASE OF FIRM CAPACITY AND ENERGY

BETWEEN

FLORIDA POWER CORPORATION

AND

CEDAR BRAKES IV, LLC

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**MASTER AGREEMENT TO AMEND AND RESTATE CONTRACTS
FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY**

**THIS MASTER AGREEMENT TO AMEND AND RESTATE
CONTRACTS FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY**

("Agreement"), dated as of _____, 2002, is entered into by and between **FLORIDA POWER CORPORATION**, a corporation organized and existing under the laws of the State of Florida ("Buyer"), and **CEDAR BRAKES IV, LLC** ("Cedar Brakes" or "Seller"), a limited liability company organized and existing under the laws of the State of Delaware,

WITNESSETH:

WHEREAS, Buyer is a party to certain Contracts (as hereinafter defined) with Orange Cogeneration Limited Partnership ("Orange LP") and Polk Power Partners, L.P. ("Polk LP") (together, the "Partnerships"), pursuant to which Buyer purchases one-hundred-eighty-four (184) megawatts of capacity and associated energy generated at the Mulberry Facility (as hereinafter defined) and the Orange Facility (as hereinafter defined); and

WHEREAS, AEP Energy Services, Inc., El Paso Merchant Energy, LLC (the "Sponsors") and Cedar Brakes are affiliates; and

WHEREAS, Cedar Brakes intends to succeed to the interests of the Partnerships in the Contracts with the consent of Buyer, or in the alternative the Sponsors shall cause the Partnerships to execute and become signatories to this Agreement, and in either case to cause the Contracts to be amended and restated by this Agreement; and

WHEREAS, Buyer desires to reduce the cost of capacity under the Contracts, and Cedar Brakes has agreed to accept lower prices for such capacity in return for Buyer's agreement to (i) provide Seller increased flexibility to source capacity and energy sold to Buyer, and (ii) cooperate with respect to the Project Restructuring.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises, the mutual promises and agreements set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, all of the signatories to this Agreement, each intending to be legally bound, hereby agree as follows:

**ARTICLE I
DEFINITIONS**

1.1 **Certain Definitions.** In addition to the capitalized terms and phrases defined in the preamble of this Agreement, the following capitalized terms and phrases as and when used in this Agreement shall have the respective meanings set forth below:

"Affiliate" - of any specified entity means any other entity directly or indirectly controlling or controlled by or under direct or indirect common control with such specified entity. For purposes of this definition, "control" when used with respect to any entity means (i) the power to vote ten percent (10%) or more of the securities having ordinary voting power of

such entity or (ii) the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Aggregate Capacity Charge" - means that which is labeled "Aggregate Capacity Charge" as shown in Exhibit A hereto and/or that which is labeled "Aggregate Capacity Charge Pursuant to Adjustment as Provided by Section 5.5" as shown in Exhibit A hereto.

"Aggregate Committed Capacity" - has the meaning ascribed to this term as reflected by Exhibit A hereto, adjusted, if required, pursuant to the provisions of Section 5.5 hereof.

"Annual Adjustment Factor" - means an annual inflation adjustment used herein. The Annual Adjustment Factor for any year shall be equal to the increase in the CPI-U (as defined herein) for the most recently completed calendar year over the second preceding calendar year, *i.e.*, the percentage difference between the CPI-U for 2000 and the CPI-U for 2001 to determine the Annual Adjustment Factor for the year 2002. By example, if the CPI-U for 2000 is 100, and the CPI-U for 2001 is 102, then the Annual Adjustment Factor for the year 2002 is 2%.

"As Available Energy Price" - means Buyer's price for as available Energy using as a proxy a calculation in accordance with FPSC Rule 25-17.0825, as in effect from time to time during the Term, provided that if neither FPSC Rule 25-17.0825 nor any successor rule or regulation of the FPSC to the same purpose (such current or successor regulation the "As Available Price Rule") is in effect, the Parties shall promptly meet and attempt to agree upon a price reference (including the pricing point and a methodology to account for differences, if any, in the location of the selected pricing point and the Delivery Point as hereinafter defined), which shall thereafter be the As Available Energy Price. If the Parties cannot agree upon an As Available Energy Price within thirty (30) Days after the expiration of the As Available Price Rule (such period the "Negotiation Period"), then within five (5) Business Days after the expiration of the Negotiation Period each Party shall submit to the other Party a prioritized list of up to five (5) price references. The first listed price reference listed in Buyer's list that also appears in Seller's list shall become the As Available Energy Price. If no common price reference appears in both Parties' lists, each Party shall submit a new list to the other Party within five (5) Business Days, and the foregoing selection procedure shall apply. If after three (3) such exchanges of lists no common price reference appears in both Parties' lists, the determination of the price reference to be used to calculate the As Available Energy Price shall be submitted to binding arbitration in accordance with the procedure set out in Exhibit G hereto, unless the Parties otherwise agree upon an As Available Energy Price. If either Party fails to timely submit a price reference list, such Party's list shall not be considered and the first price reference from the other Party's list shall become the As Available Energy Price. During the period from and including the first date the As Available Price Rule is no longer in effect, until the date that a substitute As Available Energy Price is determined (such period the "Interim Pricing Period"), the As Available Energy Price shall be determined by continuing to make such calculation pursuant to the As Available Price Rule last in effect. Upon first determination of a new As Available Energy Price following expiration of the As Available Price Rule, the price for Energy delivered during the Interim Pricing Period until the earlier of the anniversary of the first date the

As Available Price Rule is no longer in effect and the end of the Interim Pricing Period, shall be recalculated in accordance with the new As Available Energy Price, and any net difference shall be paid by the Party having benefited by such difference to the other Party, such payment being due upon the next monthly billing statement following said recalculations. During any period in which a rule or regulation of the FPSC to the same effect as the As Available Price Rule is again effective, the As Available Energy Price shall be calculated in accordance with such rule or regulation.

"Business Day" - means any Day excluding Saturday, Sunday, any Day on which banking institutions in Florida are closed because of a federal holiday, and any Day that may from time to time be designated a holiday by the North American Electric Reliability Council.

"Call Energy" - has the meaning ascribed to this term in Exhibit C hereof.

"Capacity Charge" - means the Aggregate Capacity Charge, expressed in dollars per kW of Committed Capacity per month, as adjusted if required pursuant to Section 5.5 hereof, all as set forth in Exhibit A hereto.

"Capacity Factor" - means a number, expressed as a percentage, determined by dividing (i) the Energy delivered plus the Energy that could have been delivered but for Buyer's Schedule having been cut during a Month in which capacity is committed pursuant to the provisions of Section 4.1 hereof, plus Energy that could have been delivered but for Buyer's non-performance or Event of Default, such Energy being expressed in MWh, by (ii) the sum of (a) the Committed Capacity for that Month multiplied by the aggregate number of hours in such Month during which both (1) Energy is Scheduled pursuant to the provisions of Section 5.2.1 hereof and (2) Buyer requests the Call Energy pursuant to Section 5.2.1 plus (b) the Committed Capacity for that Month less the Committed Capacity for that Month associated with the Call Energy multiplied by the aggregate number of hours in such Month during which both (1) Energy is Scheduled pursuant to the provisions of Section 5.2.1 hereof and (2) Buyer does not request the Call Energy pursuant to Section 5.2.1. Both the numerator and the denominator shall include the MWh per hour during hours in which Energy is Scheduled but not delivered by Seller or received by Buyer (i) due to a Force Majeure Event or (ii) because Buyer has committed an Event of Default under this agreement. For purposes of calculating the Capacity Factor, neither Put Energy nor Optional Energy as hereinafter defined shall be utilized in the calculation.

"Claims" - means any and all claims, demands, actions, causes of action, responsibilities, damages, fines, penalties, deficiencies, losses, expenses, costs, disbursements, liabilities and obligations, including, without limitation, liability in tort (including negligence and strict liability), interest, court costs, reasonable fees and expenses of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or of any claim, default or assessment and whether at law or in equity.

"Commencement Date" - has the meaning ascribed to this term in Section 2.1.2 hereof.

"Committed Capacity" - means an amount of capacity, measured in MW, from a Committed Facility sufficient to meet Seller's obligations as set forth in Exhibit A.

"Committed Facility" - means one or more electric generating facilities with firm transmission to a Delivery Point, with some or all of the capacity of which is available to Seller to supply the Committed Capacity to Buyer in accordance with the provisions of this Agreement.

"Contracts" - means (i) that certain Dispatchable Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated November 19, 1991, between Buyer and CFR Bio-gen Corporation (predecessor in interest to Orange LP), covering 74 MW of the capacity and energy of the Orange Facility, as hereinafter defined (the "Orange Contract"), (ii) that certain Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated March 12, 1991, between Buyer and Mulberry Energy Company (predecessor in interest to Polk LP), covering 79.2 MW of the capacity and energy of the Mulberry Facility, as hereinafter defined (the "Mulberry Contract"), and (iii) that certain Negotiated Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility dated March 17, 1991, between Buyer and Royster Phosphates, Inc. (predecessor in interest to Polk LP), covering 30.8 MW of the capacity and energy of the Mulberry Facility (the "Royster Contract"), as each shall have been amended, including, without limitation, amendments in connection with the Project Restructuring but not including the Amendment contemplated by this Agreement.

"CPI-U" - means the Annual Consumer Price Index figure shown for all items in the Consumer Price Index for All Urban Consumers-South Urban (Not Seasonally Adjusted), Series I.D. CUUR0300SA0 as published by the United States Department of Labor, Bureau of Labor Statistics, or such other relevant index of consumer prices in the Florida region as the Parties may mutually agree in the event the CPI-U is substantially modified or no longer published in the future.

"Day" - means a calendar day.

"Delivered Energy" - means all of the Energy delivered to Buyer pursuant to this Agreement at a Delivery Point.

"Delivery Point" - means any point on Buyer's electric transmission system designated for the delivery of Energy to Buyer in accordance with the provisions of this Agreement, as identified on Exhibit B. Seller may designate any other delivery point not on Buyer's electric transmission system with Buyer's consent, such consent not to be unreasonably withheld, provided that there is a firm transmission path from such delivery point to Buyer's electric transmission system, and provided further that any such change in Delivery Points shall be reflected by an amendment to Exhibit B to be attached hereto.

"Energy" - means electric energy of the character commonly known as three-phase, sixty-hertz, alternating current, and otherwise as required by FRCC practices, at the nominal voltage of the Delivery Point.

"Energy Price" - has the meaning ascribed to this term in Exhibit C.

"EPT" - means Eastern Prevailing Time which, for purposes of this Agreement, means Eastern Standard Time or Eastern Daylight Time, whichever is in effect at the time of any obligation under this Agreement.

"FERC" - means the Federal Energy Regulatory Commission or any Governmental Authority succeeding to some or all of the jurisdiction currently vested in the FERC.

"FPSC" - means the Florida Public Service Commission or any Governmental Authority succeeding to some or all of the jurisdiction currently vested in the FPSC.

"FRCC" - means the Florida Reliability Coordinating Council and any successor entity.

"Force Majeure Event" - has the meaning ascribed to this term set forth in Section 8.1 hereof.

"Full Actual Output" - means an amount of Energy equal to the net Energy generated by any or all of the Committed Facilities, as the case may be, when operated consistent with Good Utility Practices, as hereinafter defined, taking into account then prevailing weather conditions, house power requirements, restrictions imposed by environmental permits and type of fuel then in use.

"Good Utility Practices" - means, at a particular time, any of the practices, methods and acts engaged in or approved by a significant portion of generators in the electric power industry in FRCC prior to such time, or any of the practices, methods and acts which in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired results at the lowest cost consistent with good business practices, reliability, safety and expedition. Good Utility Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts expected to accomplish the desired results, having due regard for, among other things, manufacturers' warranties, Legal Requirement of any Governmental Authority, (as defined hereinafter), and the requirements of this Agreement.

"Governmental Authority" - means any local, state, regional or federal administrative, legal, judicial or executive agency, court, commission, department or other such entity, but excluding any such agency, court, commission, department or other such entity acting in its capacity as lender, guarantor or mortgagee.

"Interest Rate" - means an annual rate equal to the sum of: (a) one percent (1%) and (b) the thirty (30) Day highest grade commercial paper rate as published in the *Wall Street Journal* on the first Business Day of each Month.

"kW" - means one (1) kilowatt.

"kWh" - means one (1) kilowatt hour.

"Legal Requirement" - means any law, code, statute, regulation, rule, ordinance, judgment, injunction, order or other requirement of a Governmental Authority having jurisdiction over the matter in question that is valid and applicable to the matter in question.

"Lenders" - means any or all lenders, but not equity investors, except to the extent and in the capacity that such equity investors are also lenders as of the date of this Agreement, providing any financing or refinancing to Cedar Brakes or one or more Affiliates of Cedar Brakes in connection with any of the Committed Facilities or the Project Restructuring.

"Month" - means a calendar month, commencing at the beginning of the first Day of such calendar month.

"Monthly" - means each Month.

"Monthly Capacity Payment" - means, for any Month, an amount of money to be paid by Buyer to Seller determined by multiplying the applicable Aggregate Capacity Charge by the Aggregate Committed Capacity in kW, as set forth in said Exhibit A (reduced in accordance with Section 5.6 hereof, if applicable), provided that the Monthly Capacity Payment shall be prorated on a daily basis if the Term (as hereinafter defined) commences or expires, the Agreement terminates, or the quantity of Committed Capacity changes, during a Month. By way of example, because the Committed Capacity is reduced by an amount equal to 30.8 MW after August 9, 2009, the Monthly Capacity Payment for the month of August, 2009 is equal to [REDACTED], less any reductions in accordance with Section 5.6, if applicable.

"Monthly Energy Payment" - means, for any Month, the amount of money to be paid by Buyer to Seller for Seller's delivery of Delivered Energy in accordance with this Agreement, which amount shall be equal to the sum of (i) the product of (A) the Energy Price, multiplied by (B) the number of MWh of Energy delivered to the Delivery Points during such Month, plus (ii) payments due for Put Energy and Optional Energy as each is hereinafter defined.

"Mulberry Facility" - means the natural gas fired electric cogeneration facility, having a nominal electric generating capacity of 110 MW, located in Polk County, Florida, owned as of the date of this Agreement by Polk LP.

"Mulberry Contract" - has the meaning ascribed to this term within the above definition of "Contracts".

"MW" - one (1) megawatt, or one thousand (1,000) kW.

"MWh" - means one (1) megawatt - hour, or one thousand (1,000) kWh.

"Optional Energy" - means Energy sold to Buyer in accordance with Section 5.3.4 hereof.

"Orange Contract" - has the meaning ascribed to this term within the above definition of "Contracts".

"Orange Facility" - means the natural gas fired electric cogeneration facility, having a nominal electric generating capacity of 103 MW, located in Polk County, Florida, owned as of the date of this Agreement by Orange LP.

"Party" or "Parties" - means any of, or all of, the Persons who are or become the Buyer or the Seller under this Agreement, as the case may require.

"Person" - means any natural person or any corporation, association, partnership, trust, limited liability company, estate, Governmental Authority or other legal entity.

"Project Restructuring" - means the restructuring of ownership, financing arrangements, fuel supply and other project and partnership agreements related to the Orange Facility and the Mulberry Facility.

"Proprietary Information" - of a Party means information rightfully in the possession of such Party, which information derives economic value from not being generally known to, and not being readily ascertainable by proper means by, another Person who can obtain economic value from its disclosure and use, and that is the subject of reasonable efforts to maintain its secrecy.

"PURPA" - means the Public Utility Regulatory Policies Act of 1978, as amended, and the implementing regulations promulgated by the FERC and the FPSC from time to time.

"Put Energy" - means Energy sold to Buyer in accordance with Sections 5.3.1 and 5.3.2 hereof.

"Ramp Period" - means the period of time when a Committed Facility is starting up or shutting down. With respect to a Committed Facility other than the Mulberry Facility or the Orange Facility, the Ramp Period shall be mutually agreed upon by Buyer and Seller, each negotiating in good faith. With respect to the Mulberry Facility and the Orange Facility, the Ramp Period shall not exceed three (3) hours with respect to a start-up in Energy output (which shall be deemed to have terminated at the end of the hour in which such increase is completed), and shall not exceed two (2) hours with respect to a shut down in Energy output (which shall be deemed to have started at the beginning of the hour in which such reduction is commenced).

"Royster Contract" - has the meaning ascribed to this term within the above definition of "Contracts"

"Schedule" or "Scheduling" - means, when used in reference to Seller, as hereinafter defined, to contractually arrange for Energy to be made available at a Delivery Point for delivery to or for the account of Buyer, and means, when used in reference to Buyer, to have available transmission capacity sufficient to permit Buyer to receive the Delivered Energy, Optional Energy, or Put Energy made available at the Delivery Point.

"Scheduled Energy" - means Energy Scheduled in accordance with Sections 5.2.1 through 5.3.4 hereof, inclusive.

"Seller" - means Cedar Brakes and Affiliates of Cedar Brakes that become Parties to this Agreement, their successors and assigns as may be permitted under this Agreement, acting and having rights and obligations under this Agreement jointly and severally.

"Taxes" - means any and all taxes, other than taxes based on net income or net worth, including but not limited to ad valorem, property, occupation, severance, generation, first use, conservation, Btu or energy, transmission, utility, gross receipts, privilege, sales, use, excise and other taxes, governmental charges, licenses, fees, permits and assessments of any kind or nature, however described, together with any and all penalties, fines, additions to tax, or interest thereon.

"TECO" - means the Tampa Electric Company, a Florida electric utility.

"TECO Contract" means that certain Standard Offer Contract for the Purchase of Firm Energy and Capacity from a Qualifying Facility, dated the 17th of April, 1989, by and between Polk Power Project (predecessor in interest to Orange LP) and TECO, as amended.

"Term" - means the term of this Agreement as specified in Section 2.3.1 hereof.

1.2 Interpretation. In this Agreement and the Exhibits hereto, unless the context otherwise requires:

1.2.1 words generally importing the singular shall include the plural, and words generally importing the plural shall include the singular;

1.2.2 all Exhibits attached hereto are incorporated by reference herein;
and

1.2.3 to the extent that any term or provision of this Agreement is inconsistent with any term or provision of any of the Contracts, the terms and provisions of this Agreement shall govern such matter and the inconsistent term or provision of the Contracts shall be deemed inoperable as to such matter.

ARTICLE II EFFECTIVENESS, AMENDMENT OF CONTRACTS, AND TERM OF AGREEMENT

2.1 Effectiveness and Commencement Date.

2.1.1 This Agreement shall become effective when executed and delivered by both Buyer and Cedar Brakes.

2.1.2 The obligations of Buyer and Seller with respect to the purchase and sale of Committed Capacity and Delivered Energy hereunder shall commence on the last date (the "Commencement Date") on which all of the following conditions precedent have been satisfied or waived by the affected Party:

(a) all representations and warranties of Buyer hereunder shall be true and correct as of the Commencement Date as if made on and as of the Commencement Date;

(b) all representations and warranties of Seller hereunder shall be true and correct as of the Commencement Date as if made on and as of the Commencement Date;

(c) each of the Parties shall have delivered to the other Party legal opinions in the form(s) attached hereto as Exhibit F;

(d) Seller and Affiliates shall have completed the Project Restructuring and obtained the approval thereof by all of the owners and by the Lenders that provided financing for the Orange Facility and the Mulberry Facility, all on terms and conditions satisfactory to Seller in its sole discretion;

(e) Buyer shall have executed an Interconnection Agreement with the Orange and Mulberry Facility owners or operators, as the case may be, on terms and conditions mutually satisfactory to Buyer and Seller;

(f) Seller shall have succeeded to the interests of the Partnerships in the Contracts, or shall have caused the Partnerships to execute and become Parties to this Agreement, with the consent of Buyer, such consent to be deemed granted upon certification by Seller to Buyer that such succession or execution is consistent with and in furtherance of the Project Restructuring and Sellers' obligations under this Agreement;

(g) Buyer and Seller shall have obtained the consent or deemed consent of each collateral agent under each Consent and Agreement executed by Buyer with respect to the financing for the Orange Facility and the Mulberry Facility;

(h) A final order, no longer subject to any appeal, shall have been issued by all Governmental Authorities having applicable jurisdiction, in form and substance reasonably acceptable to Buyer;

(i) Seller shall have received financing on terms reasonably acceptable to Seller;

(j) Seller's market-based rate filing shall have become effective and shall no longer be subject to appeal;

(k) Seller has succeeded to the interests of the Partnerships in the Contracts with the consent of Buyer, or alternatively the Partnerships have executed and become signatories to this Agreement;

(l) Both Parties waive any claims that either Party may have against the other Party pursuant to, and defaults under, the Contracts except for amounts coming due and owing after the Commencement Date; and

(m) Buyer shall have executed a consent to assignment on terms and conditions reasonably acceptable to Buyer in connection with Seller's assignment of this Agreement to the Lenders.

All of the foregoing conditions precedent shall only be satisfied or waived as of the Commencement Date. The obligations of Buyer and Seller shall not be affected in the event any of the foregoing conditions precedent are no longer true or accurate following the Commencement Date.

2.1.3 Each of the Parties shall cooperate in good faith and shall use commercially reasonable efforts to cause the foregoing conditions precedent over which it has control to be satisfied as soon as reasonably possible. If, notwithstanding the reasonable efforts of both Parties, all of the conditions precedent have not been satisfied or waived by the Party entitled to the benefit thereof and the Commencement Date has not occurred before December 31, 2002 or if the Parties mutually agree prior to such date that it will not be possible to satisfy a condition precedent, then either Party may terminate this Agreement, without additional cost or liability to the other Party resulting from such termination, upon thirty (30) Days prior written notice to the other Party.

2.2 Amendment of Contracts. The Parties agree hereby that, as of the Commencement Date, the Contracts, and each of them, are deemed to be amended and restated in their entirety by this Agreement, and the terms and provisions of the Contracts are deemed to be replaced in their entirety by the terms and provisions of this Agreement, except as otherwise expressly provided in Section 5.5 herein.

2.3 Term.

2.3.1 The Term of this Agreement shall mean the period from and including the Commencement Date and through and including December 31, 2025.

2.3.2 At the expiration of the Term, the Parties shall no longer be bound by the terms and provisions hereof, except to the extent necessary to provide for final billings and payments and to enforce the rights and the obligations of the Parties arising under this Agreement prior to such expiration.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of Seller. Seller hereby makes the following representations and warranties to Buyer:

3.1.1 Seller is a corporation, partnership, limited partnership or limited liability company, duly organized, validly existing and in good standing, is qualified to do business in the State of Florida and has the legal power and authority to own or lease its properties, to conduct its business, to enter into this Agreement, to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

3.1.2 Except as set forth on Exhibit D, and subject to the satisfaction or waiver of the conditions precedent set out in Section 2.1.2, the execution, delivery and performance by Seller of this Agreement have been duly authorized by all necessary corporate action, and do not and will not require any consent or approval of any other entity or Governmental Authority, other than those that have been obtained.

3.1.3 The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of and compliance with the provisions of this Agreement by Seller do not and will not conflict with, or constitute a breach of or a default under, any of the terms, conditions or provisions of any Legal Requirements, or Seller's articles of incorporation, charter, by-laws, partnership or limited partnership agreement or other similar document, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument by which Seller or any of its property is bound, or result in a breach of or a default under any of the foregoing.

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

3.1.5 There is no pending, or to the knowledge of Seller, threatened action or proceeding affecting Seller before any Governmental Authority that purports to affect the legality, validity or enforceability of this Agreement as in effect on the date of Seller's execution hereof.

3.2 Representations and Warranties of Buyer. Buyer hereby makes the following representations and warranties to Seller:

3.2.1 Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida, and has the legal power and authority to own or lease its properties, to conduct its business, to enter into this Agreement, to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.

3.2.2 Except as set forth on Exhibit E, and subject to the satisfaction or waiver of the conditions precedent set out in Section 2.1.2, the execution, delivery and performance by Buyer of this Agreement have been duly authorized by all necessary corporate action, and do not and will not require any consent or approval of Buyer's Board of Directors or shareholders, or any other entity or Governmental Authority, other than those which have been obtained.

3.2.3 The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Agreement by Buyer do not and will not conflict with, or constitute a