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APPROVED

July 16, 2009

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VIA HAND DELIVERY

Ms. Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Petition of Progress Energy Florida, Inc. for approval of an amended negotiated purchase power contract with Vision / FL, LLC; Docket No. _____

Dear Ms. Cole:

Please find enclosed for filing on behalf of Progress Energy Florida, Inc. ("PEF") the original and seven (7) copies of the petition for approval of an amended negotiated purchase power contract with Vision / FL, LLC ("Vision").

Thank you for your assistance in this matter. Please feel free to call me at (727) 820-5184 should you have any questions.

Sincerely,

John T. Burnett
John T. Burnett

- COM _____
- ECR _____
- GCL 2 ITB/lms
- OPC 1 Attachments
- RCP _____
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- SGA** _____
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Progress Energy
Florida, Inc. for approval of an
amended negotiated purchase power
contract with Vision / FL, LLC.

Docket No. 090371
Filed: July 16, 2009

PETITION TO AMEND NEGOTIATED CONTRACT

Progress Energy Florida, Inc. ("PEF", or "the Company"), pursuant to Rule 25-17.0836, F.A.C., hereby petitions the Florida Public Service Commission ("the Commission") for approval of an amendment to a previously Commission approved negotiated power purchase contract between Vision / FL, LLC ("Vision") and PEF, dated July 23, 2008 ("the Contract") in Docket No. 080512-EQ. The Commission approved the Contract on October 15, 2008 and issued Order No. PSC-08-0707-PAA-EQ dated October 23, 2008. No protests were filed. In 2009, Vision contacted PEF and respectfully requested some changes be made to the Contract. A copy of the amended contract ("Amended Contract"), dated July 8, 2009 and pursuant to Rule 25-17.0836, F.A.C., is attached hereto as Exhibit A. In support of this petition, PEF states as follows:

1. Petitioner, PEF, is an investor-owned utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes. PEF's general offices are located at 299 First Avenue North, St. Petersburg, Florida, 33701.
2. All notices, pleadings and other communications required to be served on petitioner should be directed to:

John T. Burnett, Esquire
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5184
Facsimile: (727) 820-5249

For express deliveries by private courier, the address is as stated in paragraph 1.

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

3. Pursuant to the current terms of the Contract, Vision will construct and own a steam boiler power production generating facility (“the Facility”) located in Florida, which it will operate as a Qualifying Facility (“QF”) pursuant to regulations of the Commission. The Facility will have a maximum generating capability of approximately 40 megawatts, using a gasified sweet sorghum bagasse product as its primary fuel. Vision will sell firm capacity and energy from the Facility to PEF for a term from January 1, 2010 through December 31, 2034, with a committed capacity of 40 megawatts. The expected annual energy from the Facility is 311,853 MWh.

4. In June 2009, at the request of Vision, and with agreement from PEF, the Parties amended some of the terms and conditions of the Contract. The amendments to the Contract are as follows:

- The original estimated in-service date of January 1, 2010 has been changed to January 1, 2011.
- The current term of the Contract from January 1, 2010 through December 31, 2034 is being changed to January 1, 2011 through December 31, 2035.
- Vision was interested in a fixed energy price versus the indexed price currently in the Contract to better facilitate financing as a result of the changing economy. The current Contract provides \$0 savings to the PEF ratepayers, however, as a result of the fixed price change to the Amended Contract, PEF ratepayers will be saving \$28.6M Net Present Value over the term of the contract.
- Other minor amendments have been made to accommodate the necessary language/wording changes as a result of the revisions. These changes can

be seen in Exhibit C.

- All other aspects of the Contract remain the same.

5. Exhibit B to this petition is a red-line version of the changes being made to the Contract. Exhibit C to this petition summarizes the Amended Contract which includes the required information as set forth in Rule 25-17.0832(1)(b), F.A.C. along with a summary of the changes to the Contract. Exhibit D attached to this petition is the Financial Summary of the Amended Contract.

6. The rates, terms, and conditions of the Contract can reasonably be expected to contribute toward the deferral or avoidance of additional capacity construction or other capacity-related costs by PEF at a cost to PEF's ratepayers which does not exceed full avoided costs, giving consideration to the characteristics of the capacity and energy to be delivered by Vision under the Amended Contract.

WHEREFORE, PEF respectfully requests that the Commission approve the Amended Contract as set forth in Exhibit A.

Respectfully submitted,

By John T. Burnett *JTB*
John T. Burnett
Fla. Bar No. 173304
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (727) 820-5184
Facsimile: (727) 820-5249
Attorney for Progress Energy Florida, Inc.

EXHIBIT A

**THE AMENDED VISION CONTRACT
(CLEAN COPY)**

REDACTED

AMENDED NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY
AND ENERGY FROM A RENEWABLE ENERGY PRODUCER

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AMENDED NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY
AND ENERGY FROM A RENEWABLE ENERGY PRODUCER

between

Vision / FL I LLC

and

PROGRESS ENERGY FLORIDA

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**AMENDED NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY
AND ENERGY FROM A RENEWABLE ENERGY PRODUCER
OR QUALIFYING FACILITY LESS THAN 100 KW**

THIS NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY (hereinafter referred to as the "Contract"), as amended and signed as provided on the signature page below, and deemed made and entered as of the date this Contract is approved by the Florida Public Service Commission (hereinafter referred to as the "Execution Date"), by and between Vision / FL I LLC (hereinafter the Renewable Energy Provider/Qualifying Facility ("RF/QF")), and Florida Power Corporation d/b/a Progress Energy Florida (hereinafter "PEF"), a private utility corporation organized and existing under the laws of the State of Florida. The RF/QF and PEF shall be individually be identified herein as the "Party" and collectively as the "Parties". This Contract contains four Appendices which are incorporated into and made part of this Contract: Appendix A: Monthly Capacity Payment Calculation; Appendix B: Termination Fee; Appendix C: Detailed Project Information; Appendix D: Rate Schedule COG-2; Appendix E: Florida Public Service Commission ("FPSC") Rules 25-17.080 through 25-17.310, F.A.C.

WITNESSETH:

WHEREAS, the RF/QF desires to sell, and PEF desires to purchase electricity to be generated by the RF/QF consistent with Florida Statutes 366.91 (2006) and FPSC Rules 25-17.080 through 25-17.310 F.A.C.; and

WHEREAS, the RF/QF has acquired an interconnection/transmission service agreement with the utility in whose service territory the Facility is to be located, pursuant to which the RF/QF assumes contractual responsibility to make any and all transmission-related arrangements (including ancillary services) between the RF/QF and the Transmission Provider for delivery of the Facility's firm capacity and energy to PEF. The Parties recognize that the Transmission Provider may be PEF and that the transmission service will be provided under a separate agreement; and

WHEREAS, the FPSC has approved this Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer; and

WHEREAS, the RF/QF guarantees that the Facility is capable of delivering firm capacity and energy to PEF for the term of this Contract in a manner consistent with the provision of this Contract;

NOW, THEREFORE, for mutual consideration the Parties agree as follows:

1. Definitions

“AFR” means the Facility’s annual fuel requirement.

“AFTR” means the Facility’s annual fuel transportation requirement

“Annual Capacity Billing Factor” or “ACBF” means 12 month rolling average of the Monthly Availability Factor as further defined and explained in Appendix A.

“Appendices” shall mean the schedules, exhibits, and attachments which are appended hereto and are hereby incorporated by reference and made a part of this Contract. Such Appendices include:

“Appendix A” sets forth the Monthly Capacity Payment Calculation.

“Appendix B” sets forth the Termination Fee.

“Appendix C” sets forth the Detailed Project Information.

“Appendix D” sets forth Rate Schedule COG-2.

“Appendix E”

sets forth Florida Public Service Commission (“FPSC”) Rules 25-17.080 through 25-17.310, F.A.C.

“As-Available Energy Rate” means the rate calculated by PEF in accordance with FPSC Rule 25-17.0825, F.A.C., and PEF's Rate Schedule COG-1, as they may each be amended from time to time

“Authorization to Construct” means authorization issued by any appropriate Government Agency to construct or reconstruct the Facility granted to RF/QF in accordance with the laws of the State of Florida and any relevant federal law.

“Avoided Unit” means the electrical generating unit described in Section 4 upon which this Contract is based.

“Avoided Unit Energy Cost” has the meaning assigned to it in Appendix D.

“Avoided Unit Fuel Cost” has the meaning assigned to it in Appendix D.

“Avoided Unit Heat Rate” means the average annual heat rate of the Avoided Unit as defined in Section 4.

“Avoided Unit In-Service Date” means the date upon which the Avoided Unit would have started commercial operation as specified in Section 4.

“Avoided Unit Life” means the economic life of the Avoided Unit.

“Avoided Unit Variable O&M” means the Avoided Unit variable operation and maintenance expenses as defined in Section 4. This rate will escalate annually based upon CPI-U. The annual escalation will begin in the payment for January deliveries.

“Base Capacity Payment” or “BCP” means capacity payment rates defined in Appendix D and further defined by the selection of Option A,B,C or D in Section 9.2.

“Base Performance Security Amount” means the dollar amount per MW listed in the Table 2 in Section 11 for years 1-5 associated with the applicable credit class of the Party.

“Base Year” means the year that this Contract was approved by the FPSC.

“Business Day” means any day except a day upon which banks licensed to operate in the State of Florida are authorized, directed or permitted to close, Saturday, Sunday or a weekday that is observed as a public holiday in the State of Florida.

“CAMD” means the Clean Air Markets Division of the Environmental Protection Agency or successor administrator (collectively with any local, state, regional, or federal entity given jurisdiction over a program involving transferability of Environmental Attributes).

“Capacity” means the minimum average hourly net capacity (generator output minus auxiliary load) measured over the Committed Capacity Test Period.

“Capacity Delivery Date” means the first calendar day immediately following the date of the Facility's successful completion of the first Committed Capacity Test.

“Capacity Payment” means the payment defined in Section 9.2 and Appendix A.

“Committed Capacity” or “CC” means the capacity in MW that the RF/QF commits to sell to PEF, the amount of which shall be determined in accordance with Section 7 and Appendix D.

“Committed Capacity Test” means the testing of the capacity of the Facility performed in accordance with the procedures set forth in Section 8.

“Committed Capacity Test Period” means a test period of twenty-four (24) consecutive hours.

“Completed Permits Date” means the date by which the RF/QF must complete licensing, certification, and all federal, state and local governmental, environmental, and licensing approvals required to initiate construction of the Facility. This date is specified in Section 4.

“Completion/Performance Security” means the security described in Section 11.

“Conditions Precedent” shall have the meaning assigned to it in Section 5.

“Contract” means this Negotiated contract for the purchase of Firm Capacity and Energy from a Renewable Energy Producer or Qualifying Facility with a nameplate capacity of less than 100 kW.

“CPI-U” means the revised monthly consumer price index for All Urban Consumers, U.S. City Average (CPI-U) (All Items 1982-84 = 100) promulgated by the Bureau of Labor Statistics of the United States Department of Labor.

“Creditworthy” with respect to a Party or its credit support provider, as applicable, means a party is rated by at least two (2) of the three (3) following rating agencies Standard & Poor’s (S&P), Moody’s Investor Services (Moody’s) and Fitch Rating Services (Fitch). Rating shall be the unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement). Both ratings (if company is only rated by 2 of the 3 agencies) or at least two (2) of the three (3) (if company is rated by all three agencies) must be (i) BBB- or greater from S&P (ii) Baa3 or greater from Moody’s (iii) BBB- or greater from Fitch.

“Demonstration Period” means a sixty-hour period in which the Committed Capacity Test must be completed.

“Distribution System” means the distribution system consisting of electric lines, electric plant, transformers and switchgear used for conveying electricity to ultimate consumers, but not including any part of the Transmission System.

“Dispute” shall have the meaning assigned to it in Section 20.9.

“Drop Dead Date” means the date which is twelve (12) months following the Execution Date.

“Eastern Prevailing Time” or “EPT” means the time in effect in the Eastern Time Zone of the United States of America, whether Eastern Standard Time or Eastern Daylight Savings Time.

“Effective Date” has the meaning assigned to it in Section 5.

“Electrical Interconnection Point” means the physical point at which the Facility is connected with the Transmission System or, if RF/QF interconnects with a Transmission System other than PEF’s, PEF’s interconnection with the Transmission Provider’s Transmission System, or such other physical point on which RF/QF and PEF may agree.

“Eligible Collateral” means (i) a Letter of Credit from a Qualified Institution or (ii) cash deposited into a PEF Security Account by RF/QF or RF/QF Security Account by PEF, as the case may be, or (iii) RF/QF Guarantee or PEF Guarantee or a combination of (i) , (ii) and/or (iii) as outlined in Section 11.

“Energy” means megawatt-hours generated by the Facility of the character commonly known as three-phase, sixty hertz electric energy that is delivered at a nominal voltage at the Electrical Interconnection Point.

“Environmental Attributes” means all attributes of an environmental or other nature that are created or otherwise arise from the Facility’s generation of electricity from a renewable energy source in contrast with the generation of electricity using nuclear or fossil fuels or other traditional resources. Forms of such attributes include, without limitation, any and all environmental air quality credits, green credits, renewable energy credits (“RECs”), carbon credits, emissions reduction credits, certificates, tags, offsets, allowances, or similar products or rights, howsoever entitled, (i) resulting from the avoidance of the emission of any gas, chemical, or other substance, including but not limited to, mercury, nitrogen oxide, sulfur dioxide, carbon dioxide, carbon monoxide, particulate matter or similar pollutants or contaminants of air, water or soil gas, chemical, or other substance, and (ii) attributable to the generation, purchase, sale or use of Energy from or by the Facility, or otherwise attributable to the Facility during the Term. Environmental Attributes include, without limitation, those currently existing or arising during the Term under local, state, regional, federal, or international legislation or regulation relevant to the avoidance of any emission described in this Contract under any governmental, regulatory or voluntary program, including, but not limited to, the United Nations Framework Convention on Climate Change and related Kyoto Protocol or other programs, laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency (“CAMD”) or successor administrator (collectively with any local, state, regional, or federal entity given jurisdiction over a program involving transferability of Environmental Attributes,).

“Event of Default” has the meaning assigned to it in Section 14.

“Execution Date” has the meaning assigned to it in the opening paragraph of this Contract.

“Expiration Date” means the final date upon which this Contract can be executed. This date is specified in Section 4.

“Facility” means all equipment, as described in this Contract, used to produce electric energy and, and all equipment that is owned or controlled by the RF/QF required for parallel operation with the Transmission System. In the case of a cogenerator the Facility includes all equipment that is owned or controlled by the RF/QF to produce useful thermal energy through the sequential use of energy.

“Financial Closing” means the fulfillment of each of the following conditions:

- (a) the execution and delivery of the Financing Documents; and
- (b) all Conditions Precedent to the initial availability for disbursement of funds under the Financing Documents (other than relating to the effectiveness of this Contract) are satisfied or waived.

“Financing Documents” shall mean documentation with respect to any private equity investment in RF/QF, any loan agreements (including agreements for any subordinated debt), notes, bonds, indentures, guarantees, security agreements and hedging agreements relating to the financing or refinancing of the design, development, construction, Testing, Commissioning, operation and maintenance of the Facility or any guarantee by any Financing Party of the repayment of all or any portion of such financing or refinancing.

“Financing Party” means the Persons (including any trustee or agent on behalf of such Persons) providing financing or refinancing to or on behalf of RF/QF for the design, development, construction, testing, commissioning, operation and maintenance of the Facility (whether limited recourse, or with or without recourse).

“Firm Capacity and Energy” has the meaning assigned to it in Appendix D.

“Firm Capacity Rate” has the meaning assigned to it in Appendix D.

“Firm Energy Rate” has the meaning assigned to it in Appendix D.

“Force Majeure” has the meaning given to it in Section 18.

“FPSC” means the Florida Public Service Commission or its successor.

“Government Agency” means the United States of America, or any state or any other political subdivision thereof, including without limitation, any municipality, township or county, and any domestic entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including, without limitation, any corporation or other entity owned or controlled by any of the foregoing.

“Governmental Approval” means any authorization, consent, approval, license, ruling, permit, exemption, variance, order, judgment, instruction, condition, direction, directive, decree, declaration of or regulation by any Government Agency relating to the construction, development, ownership, occupation, start-up, Testing, operation or maintenance of the Facility or to the execution, delivery or performance of this Contract as any of the foregoing are in effect as of the date of this Contract.

“Gross Domestic Price Implicit Price Deflator” or “GDPIPD” has the meaning assigned to it in Section 11.

“IEEE” means the Institute of Electrical and Electronics Engineers, Inc.

“Indemnified Party” has the meaning assigned to it in Section 16.

“Indemnifying Party” has the meaning assigned to it in Section 16.

“Initial Reduction Value” has the meaning assigned to it in Appendix B.

“Insurance Services Office” has the meaning assigned to it in Section 17.

“KVA” means one or more kilovolts-amperes of electricity, as the context requires.

“kW” means one or more kilowatts of electricity, as the context requires.

“kWh” means one or more kilowatt-hours of electricity, as the context requires.

“Letter of Credit” means a stand-by letter of credit from a Qualified Institution that is acceptable to PEF whose approval may not be unreasonably withheld.

“LOP” means a letter of intent for fuel supply.

“Material Adverse Change” means as to PEF, that PEF or PEF Guarantor, if applicable, or, as to RF/QF, that RF/QF or RF/QF Guarantor, if applicable, any of the following events; (a) such party is no longer Creditworthy or (b) the party of Party’s guarantor, if applicable, defaults on an aggregate of fifty million dollars (\$50,000,000) or five percent (5%) of equity, whichever is less.

“MCPC” means the Monthly Capacity Payment for Option A.

“Monthly Billing Period” means the period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m., on the Capacity Delivery Date and ending with the last calendar day of such month.

“Monthly Availability Factor” or “MAF” means the total energy received during the Monthly Billing Period for which the calculation is made, divided by the product of Committed Capacity times the total hours during the Monthly Billing Period.

“Monthly Capacity Payment” or “MCP” means the payment for Capacity calculated in accordance with Appendix A.

“MW” means one or more megawatts of electricity, as the context requires.

“MWh” means one or more megawatt-hours of electricity, as the context requires.

“Option A” means normal Capacity Payments as described in Appendix D.

“Option B” means early Capacity Payments as described in Appendix D.

“Option C” means levelized Capacity Payments as described in Appendix D.

“Option D” means early levelized Capacity Payments as described in Appendix D.

“Party” or “Parties” has the meaning assigned to it in the opening paragraph of this Contract.

“PEF” has the meaning assigned to it in the opening paragraph of this Contract.

“PEF Entities” has the meaning assigned to it in Section 16.

“PEF Guarantee” means a guarantee provided by PEF Guarantor that is acceptable to RF/QF whose approval may not be unreasonably withheld.

“PEF Guarantor” means a party that, at the time of execution and delivery of its PEF Guarantee is a direct or indirect owner of PEF and is (a) Creditworthy or is (b) reasonably acceptable to RF/QF as having verifiable Creditworthiness and a net worth sufficient to secure PEF’s obligations.

“PEF Security Account” means an account designated by PEF for the benefit of PEF free and clear of all liens (including liens of any lenders) to be established and maintained at a Qualified Institution pursuant to a control agreement in a form and substance acceptable to PEF whose cost is to be borne by the RF/QF.

“Person” means any individual, partnership, corporation, association, joint stock company trust, joint venture, unincorporated organization, or Governmental Agency (or any department, agency, or political subdivision thereof).

“Project Consents” mean the following Consents, each of which is necessary to RF/QF for the fulfillment of RF/QF’s obligations hereunder:

- (a) the Authorization to Construct;
- (b) planning permission and consents in respect of the Facility, and any electricity substation located at the Facility site, including but not limited to, a prevention of significant deterioration permit, a noise, proximity and visual impact permit, and any required zoning permit; and
- (c) any integrated pollution control license.

“Project Contracts” means this Contract, and any other contract required to construct, operate and maintain the Facility. The Project Contracts may include, but are not limited to, the turnkey engineering, procurement and construction contract, the electrical interconnection and operating agreement, the fuel supply agreement, the facility site lease, and the operation and maintenance agreement.

“Prudent Utility Practices” means any of the practices, methods, standards and acts (including, but not limited to, the practices, methods and acts engaged in or approved by a significant portion of owners and operators of power plants of technology, complexity and size similar to the Facility in the United States) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, could have been expected to accomplish the desired result and goals (including such goals as efficiency, reliability, economy and profitability) in a manner consistent with applicable facility design limits and equipment specifications and applicable laws and regulations. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of acceptable practices, methods or acts in each case taking into account the Facility as an independent power project.

“Qualifying Facility” or “QF” means a cogenerator, small power producer, or non-utility generator that has been certified or self-certified by the FERC as meeting certain ownership, operating and efficiency criteria established by the Federal Energy Regulatory Commission pursuant to the Public Utility Regulatory Policies Act of 1978 (“PURPA”), the criteria for which are currently set forth in 18 C.F.R. § 292, *et seq.* (2006), Section 210 of PURPA, 16 U.S.C. § 824a-3 (2005), 16 U.S.C. 796 *et seq.* (2006), and Section 1253 of EPAct 2005, Pub. L. No. 109-58, § 1253, 119 Stat. 594 (2005) or, alternatively, analogous provisions under the laws of the State of Florida.

“Qualified Institution” means the domestic office of a United States commercial bank or trust company or a foreign bank with a United States branch with total assets of at least ten billion dollars (\$10,000,000,000) (which is not an affiliate of either party) having a general long-term senior unsecured debt rating of A- or higher (as rated by Standard & Poor’s Ratings Group), A3 or higher (as rated by Moody’s Investor Services) or A- or higher (as rated by Fitch Ratings).

“Rate Schedule COG-1” means PEF’s Agreement for Purchase of As-Available Energy and/or Parallel Operation with a Qualifying Facility as approved by the FPSC and as may be amended from time to time.

“REC” means renewable energy credits, green tags, green tickets, renewable certificates, tradable renewable energy credits (“T-REC”) or any tradable certificate that is produced by a renewable generator in addition to and in proportion to the production of electrical energy.

“Reduction Value” has the meaning assigned to it in Appendix B.

“Renewable Facility” or “RF/QF” means an electrical generating unit or group of units at a single site, interconnected for synchronous operation and delivery of electricity to an electric utility, where the primary energy in British Thermal Units used for the production of electricity is from one or more of the following sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power or waste heat from a commercial or industrial manufacturing process.

“RF/QF Entities” has the meaning assigned to it in Section 16.

“RF/QF Guarantee” means a guarantee provided by RF/QF Guarantor that is acceptable to PEF whose approval may not be unreasonably withheld.

“RF/QF Guarantor” means a party that, at the time of execution and delivery of its RF/QF Guarantee is a direct or indirect owner of RF/QF and is (a) Creditworthy or is (b) reasonably acceptable to PEF as having verifiable Creditworthiness and a net worth sufficient to secure RF/QF’s obligations.

“RF/QF Insurance” has the meaning assigned to it in Section 17.

“RF/QF Performance Security” has the meaning assigned in Section 11.

“RF/QF Security Account” means an account designated by the RF/QF for the benefit of the RF/QF free and clear of all liens (including liens of any lenders) to be established and maintained at a Qualified Institution pursuant to a control agreement in a form and substance acceptable to RF/QF whose cost is to be borne by PEF.

“Security Documentation” has the meaning assigned to it in Section 12.

“Supplemental Eligible Collateral” means additional collateral in the form of Letter of Credit or cash to augment the RF/QF Performance Security in the event of a Material Adverse Change.

“Term” has the meaning assigned to it in Section 3.

“Termination Date” means the date upon which this Contract terminates unless terminated earlier in accordance with the provisions hereof. This date is specified in Section 4.

“Termination Fee” means the fee described in Appendix B as it applies to any Capacity Payments made under Option B, C or D.

“Termination Security” has the meaning assigned to it in Section 12.

“Transmission Provider” means the operator(s) of the Transmission System(s) or any successor thereof or any other entity or entities authorized to transmit Energy on behalf of RF/QF from the Electrical Interconnection Point.

“Transmission System” means the system of electric lines comprised wholly or substantially of high voltage lines, associated system protection, system stabilization, voltage transformation, and capacitance, reactance and other electric plant used for conveying electricity from a generating station to a substation, from one generating station to another, from one substation to another, or to or from any Electrical Interconnection Point or to ultimate consumers and shall include any interconnection owned by the Transmission Provider or PEF, but shall in no event include any lines which the Transmission Provider has specified to be part of the Distribution System except for any distribution facilities required to accept capacity and energy from the Facility.

2. Facility; Renewable Facility or Qualifying Facility Status

The Facility's location and generation capabilities are as described in Table 1 below.

TABLE 1

TECHNOLOGY AND GENERATOR CAPABILITIES	
Location: Specific legal description (e.g., metes and bounds or other legal description with street address required)	City: County: Osceola
Generator Type (Induction or Synchronous)	Synchronous
Technology	Steam Turbine
Fuel Type and Source	Closed Loop Sweet Sorghum Bagasse
Generator Rating (KVA)	62,500
Maximum Capability (kW)	50,000
Net Output (kW)	To PEF 40,000
Power Factor (%)	92-95
Operating Voltage (kV)	13.8
Peak Internal Load kW	9,500

The RF/QF's failure to complete Table 1 in its entirety shall render this Contract null and void and of no further effect.

The RF/QF shall use the same fuel or energy source and maintain the status as a Renewable Facility or a Qualifying Facility throughout the term of this Contract. RF/QF shall at all times keep PEF informed of any material changes in its business which affects its Renewable Facility or Qualifying Facility status. PEF and RF/QF shall have the right, upon reasonable notice of not less than seven (7) Business Days, to inspect the Facility and to examine any books, records, or other documents reasonably deemed necessary to verify compliance with this Contract. In the event of an emergency at or in proximity to the RF/QF site that impacts PEF's system, PEF shall make reasonable efforts to contact the Facility and make arrangements for an emergency inspection. On or before March 31 of each year during the term of this Contract, the RF/QF shall provide to PEF a certificate signed by an officer of the RF/QF certifying that the RF/QF continuously maintained its status as a Renewable Facility or a Qualifying Facility during the prior calendar year.

3. Term of Contract

Except as otherwise provided herein, this Contract shall become effective immediately upon the Execution Date and shall end at 12:01 a.m. on the Termination Date, (the “Term”) unless terminated earlier in accordance with the provisions hereof. Notwithstanding the foregoing, if the Capacity Delivery Date of the Facility is not accomplished by the RF/QF before the Avoided Unit In-Service Date (or such later date as may be permitted by PEF pursuant to Section 7), this Contract shall be rendered null and void and PEF's shall have no obligations under this Contract.

4. Minimum Specifications and Milestones

As required by FPSC Rule 25-17.0832(4)(e), the minimum specifications pertaining to this Contract and milestone dates are as follows:

Avoided Unit	Suwannee River Plant 4-on-1 CC
Avoided Unit Capacity	1,161 MW
Avoided Unit In-Service Date	June 1, 2013
Avoided Unit Heat Rate	7,134 BTU/kWh
Avoided Unit Variable O&M	0.203¢ per kWh in mid-2013 dollars escalating annually at 2.25%
Avoided Unit Life	25 years
Capacity Payments begin	January 1, 2011
Termination Date	25 years after the Capacity Delivery Date
Minimum Performance Standards – On Peak Availability Factor*	89%
Minimum Performance Standards – Off Peak Availability Factor	89%
Minimum Availability Factor Required to qualify for a Capacity payment	69%
Completed Permits Date	June 1, 2012

* RF/QF performance shall be as measured and/or described in Appendix A.

5. Conditions Precedent

- (a) Unless otherwise waived in writing by PEF, on or before the Drop Dead Date, RF/QF shall satisfy the following Conditions Precedent:
- (i) RF/QF shall have obtained firm transmission service necessary to deliver Capacity and energy from the Facility to the Electrical Interconnection Point, in a form and substance satisfactory to RF/QF in its sole discretion;
 - (ii) RF/QF shall have obtained the Project Consents and any other Consents for which it is responsible under the terms hereof in a form and substance satisfactory to RF/QF in its sole discretion;
 - (iii) RF/QF shall have entered into Financing Documents relative to the construction of the Facility and have achieved Financial Closing in a form and substance satisfactory to RF/QF in its sole discretion;
 - (iv) RF/QF shall have entered into the Project Contracts in a form and substance satisfactory to RF/QF in its sole discretion;
 - (v) RF/QF shall have obtained insurance policies or coverage in compliance with Section 17;
 - (vi) RF/QF shall have delivered to PEF (i) a copy of its constitutional documents (certified by its corporate secretary as true, complete and up-to-date) and (ii) a copy of a corporate resolution approving the terms of this Contract and the transactions contemplated hereby and authorizing one or more individuals to execute this Contract on its behalf (such copy to have been certified by its corporate representative as true, complete and up-to-date);
 - (vii) in the event the RF/QF is a Qualifying Facility, RF/QF obtaining Qualifying Facility status from either the FPSC or FERC.
- (b) Promptly upon satisfaction (or waiver by PEF in writing) of the Conditions Precedent to be satisfied by RF/QF, PEF shall deliver to RF/QF a certificate evidencing such satisfaction. Subject to there being no Event of Default which has occurred and/or is continuing as of the date upon which the last of such certificates is delivered, the date of such last certificate shall constitute the effective date of this Contract (the "Effective Date").
- (c) Unless all Conditions Precedent are satisfied by RF/QF on or before the Drop Dead Date or such Conditions Precedent are waived in writing by PEF, this Contract shall terminate on such date and neither Party shall have any further liability to the other Party hereunder.
- (d) RF/QF shall achieve the Capacity Delivery Date on or before the Avoided Unit In-Service Date.

- (e) RF/QF shall ensure that before the initial Committed Capacity Test:
 - (a) the Facility shall have been constructed so that the Committed Capacity Test may be duly and properly undertaken in accordance with Section 7; and
 - (b) an operable physical connection from the Facility to the Transmission System shall have been effected in accordance with the electrical interconnection and operating agreement required by the Transmission Provider, provided, however, that such physical connection shall be made consistent with the terms hereof.

6. Sale of Electricity by the RF/QF

6.1 Consistent with the terms hereof, the RF/QF shall sell to PEF and PEF shall purchase from the RF/QF electric power generated by the Facility. The purchase and sale of electricity pursuant to this Contract shall be a () net billing arrangement or () simultaneous purchase and sale arrangement; provided, however, that no such arrangement shall cause the RF/QF to sell more than the Facility's net output. The billing methodology may be changed at the option of the RF/QF, subject to the provisions of Appendix D.

6.2 Ownership and Offering For Sale Of Renewable Energy Attributes

The RF/QF shall retain any and all rights to own and to sell any and all Environmental Attributes associated with the electric generation of the Facility, provided that: (i) PEF shall have a right of first refusal with respect to any and all bona fide offers to purchase any Environmental Attributes; and (ii) the RF/QF shall not sell Environmental Attributes to any party at a price less than that charged by PEF. PEF must respond to an offer by a bona fide offer within thirty (30) days of notification by the RF/QF.

6.3 The RF/QF shall not rely on interruptible standby service for the start up requirements (initial or otherwise) of the Facility.

6.4 The RF/QF shall be responsible for the scheduling of required transmission and for all costs, expenses, taxes, fees and charges associated with the delivery of energy to PEF. The RF/QF shall enter into a transmission service agreement with the Transmission Provider in whose service territory the Facility is to be located and the RF/QF shall make any and all transmission-related arrangements (including ancillary services) between the RF/QF and the Transmission Provider for delivery of the Facility's firm Capacity and energy to PEF. The Capacity and energy amounts paid to the RF/QF hereunder do not include transmission losses. The RF/QF shall be responsible for transmission losses that occur prior to the point at which the RF/QF's energy is delivered to PEF. The Parties recognize that the Transmission Provider may be PEF and that if PEF is the Transmission Provider, that the transmission service will be provided under a separate agreement.

7. **Committed Capacity/Capacity Delivery Date**

7.1 In the event that the RF/QF elects to make no commitment as to the quantity or timing of its deliveries to PEF, then its Committed Capacity as defined in the following Section 7.2 shall be zero (0) MW. If the Committed Capacity is zero (0) MW, Sections 7.2 through Section 7.7 and all of Section 8 shall not apply.

7.2 If the RF/QF commits to sell capacity to PEF, the amount of which shall be determined in accordance with this Section 7 and Appendix D. Subject to Section 7.4, the Committed Capacity is set at 40,000 kW, with an expected Capacity Delivery Date on or before the Avoided Unit In-Service Date.

7.3 Capacity testing of the Facility (each such test a Committed Capacity Test) shall be performed in accordance with the procedures set forth in Section 8. The Demonstration Period for the first Committed Capacity Test shall commence no earlier than ninety (90) days before the expected Capacity Delivery Date and testing must be completed before the Avoided Unit In-Service Date. The first Committed Capacity Test shall not be successfully completed unless the Facility demonstrates a Capacity of at least one hundred percent (100%) of the Committed Capacity set forth in Section 7.2. Subject to Section 8.1, the RF/QF may schedule and perform up to three (3) Committed Capacity Tests to satisfy the requirements of the Contract with respect to the first Committed Capacity Test.

7.4 In addition to the first Committed Capacity Test, PEF shall have the right to require the RF/QF, after notice of no less than ten (10) Business Days prior to such proposed event, to validate the Committed Capacity by means of a Committed Capacity Test at any time, up to two (2) times per year, the results of which shall be provided to PEF within seven (7) calendar days of the conclusion of such test. On and after the date of such requested Committed Capacity Test, and until the completion of a subsequent Committed Capacity Test, the Committed Capacity shall be set at the lower of the Capacity tested or the Committed Capacity as set forth in Section 7.2.

- 7.5 Notwithstanding anything contrary to the terms hereof, the Committed Capacity may not exceed the amount set forth in Section 7.2 without the consent of PEF, which consent shall be granted in PEF's sole discretion.
- 7.6 In no event shall PEF make Capacity Payments to the RF/QF prior to the Capacity Delivery Date.
- 7.7 The RF/QF shall be entitled to receive Capacity Payments beginning on the Capacity Delivery Date, provided the Capacity Delivery Date occurs before the Avoided Unit In-Service Date (or such later date permitted by PEF). If the Capacity Delivery Date does not occur before the Avoided Unit In-Service Date, PEF shall immediately be entitled to draw down the Completion/Performance Security in full.

8. Testing Procedures

- 8.1 The Committed Capacity Test must be completed successfully within the Demonstration Period, which period, including the approximate start time of the Committed Capacity Test, shall be selected and scheduled by the RF/QF by means of a written notice to PEF delivered at least thirty (30) calendar days prior to the start of such period. The provisions of the foregoing sentence shall not apply to any Committed Capacity Test ordered by PEF under any of the provisions of this Contract. PEF shall have the right to be present onsite to monitor firsthand any Committed Capacity Test required or permitted under this Contract.
- 8.2 The Committed Capacity Test results shall be based on a test period of twenty-four (24) consecutive hours (the "Committed Capacity Test Period") at the highest sustained net kW rating at which the Facility can operate without exceeding the design operating conditions, temperature, pressures, and other parameters defined by the applicable manufacturer(s) for steady state operations at the Facility. The Committed Capacity Test Period shall commence at the time designated by the RF/QF pursuant to Section 8.1 or at such time requested by PEF pursuant to Section 7.4; provided, however, that the Committed Capacity Test Period may commence earlier than such time in the event that PEF is notified of, and consents to, such earlier time.
- 8.3 Normal station service use of unit auxiliaries, including, without limitation, cooling towers, heat exchangers, and other equipment required by law, shall be in service during the Committed Capacity Test Period.
- 8.4 The Capacity of the Facility shall be the minimum average hourly net output in kW (generator output minus auxiliary) measured over the Committed Capacity Test Period.

- 8.5 The Committed Capacity Test shall be performed according to standard industry testing procedures for the appropriate technology of the RF/QF.
- 8.6 The results of any Committed Capacity Test, including all data related to Facility operation and performance during testing, shall be submitted to PEF by the RF/QF within seven (7) calendar days of the conclusion of the Committed Capacity Test. The RF/QF shall certify that all such data is accurate and complete.

9. Payment for Electricity Produced by the Facility

9.1 Energy

- 9.1.1 PEF agrees to pay the RF/QF for energy produced by the Facility and delivered to PEF in accordance with the rates and procedures contained in PEF's approved Rate Schedule COG-1 if the Committed Capacity pursuant to Section 7.2 is set to zero. If the Committed Capacity is greater than zero MW, then PEF agrees to pay the RF/QF for energy produced by the Facility and delivered to PEF in accordance with the rates and procedures contained in Appendix D, as it may be amended from time to time to take into account changes to retail service charges, interconnection-related charges and applicable FPSC rule changes. The Parties agree that this Contract shall be subject to all of the provisions contained in Rate Schedule COG-1 or Appendix D whichever applies as approved and on file with the FPSC.
- 9.1.2 PEF may, at its option, limit deliveries under this Contract to 110% of the Committed Capacity as set forth in Section 7. In the event that PEF chooses to limit deliveries, any energy in excess of 110% of the Committed Capacity will be paid for at the rates defined in Rate Schedule COG-1 and shall not be included in the calculations in Appendix A hereto.

9.2 Capacity

PEF agrees to pay the RF/QF for the Capacity described in Section 7 in accordance with the rates and procedures contained in Appendix D, as it may be amended and approved from time to time by the FPSC to take into account changes to retail service charges, interconnection-related charges and applicable FPSC rule changes, and pursuant to the election of Option B of Appendix D. The RF/QF understands and agrees that Capacity Payments will only be made if the Capacity Delivery Date occurs before the Avoided Unit In-Service Date and the Facility is delivering firm Capacity and Energy to PEF. Once so selected, this Option, the Firm Capacity Rate and/or the Firm Energy Rate cannot be changed for the term of this Contract.

9.3 Payments for Energy and Capacity

9.3.1 Payments due the RF/QF will be made monthly, and normally by the twentieth Business Day following the end of the billing period. The kilowatt-hours sold by the RF/QF and the applicable avoided energy rate at which payments are being made shall accompany the payment to the RF/QF.

9.3.2 Payments to be made under this Contract shall, for a period of not longer than two (2) years, remain subject to adjustment based on billing adjustments due to error or omission by either Party, provided that such adjustments have been agreed to between the Parties.

10. Electricity Production and Plant Maintenance Schedule

10.1 No later than sixty (60) calendar days prior to the Capacity Delivery Date, and prior to October 1 of each calendar year thereafter during the term of this Contract, the RF/QF shall submit to PEF in writing a good-faith estimate of the amount of electricity to be generated by the Facility and delivered to PEF for each month of the following calendar year, including the time, duration and magnitude of any scheduled maintenance period(s) or reductions in Capacity. A RF/QF agrees to provide updates to its planned maintenance periods as they become known. The Parties agree to discuss coordinating scheduled maintenance schedules.

10.2 By October 31 of each calendar year, PEF shall notify the RF/QF in writing whether the requested scheduled maintenance periods in the detailed plan are acceptable. If PEF does not accept any of the requested scheduled maintenance periods, PEF shall advise the RF/QF of the time period closest to the requested period(s) when the outage(s) can be scheduled. The RF/QF shall only schedule outages during periods approved by PEF, and such approval shall not be unreasonably withheld. Once the schedule for the detailed plan has been established and approved, either Party requesting a subsequent change in such schedule, except when such change is due to Force Majeure, must obtain approval for such change from the other Party. Such approval shall not be unreasonably withheld or delayed. Scheduled maintenance outage days shall be limited to fifteen (15) days per calendar year. In no event shall maintenance periods be scheduled during the following periods: June 1 through September 15 and December 1 through and including the last day of February.

10.3 The RF/QF shall comply with reasonable requests by PEF regarding day-to-day and hour-by-hour communication between the Parties relative to electricity production and maintenance scheduling.

- 10.4** The Parties recognize that the intent of the availability factor in Section 4 of this Contract includes an allowance for scheduled outages, forced outages and forced reductions in the output of the Facility. Therefore, the RF/QF shall provide PEF with notification of any forced outage or reduction in output which shall include the time and date at which the forced outage or reduction occurred, a brief description of the cause of the outage or reduction and the time and date when the forced outage or reduction ceased and the Facility was able to return to normal operation. This notice shall be provided to PEF within seventy-two (72) hours of the end of the forced outage or reduction.

The RF/QF is required to provide the total electrical output to PEF except (i) during a period that was scheduled in Section 10.2, (ii) during a period in which notification of a forced outage or reduction was provided, (iii) during an event of Force Majeure or (iv) during a curtailment period as described in Section 10.5.5. In the event that the RF/QF does not deliver its full electrical output to PEF during an hour not excluded in the previous sentence then the RF/QF shall be charged a rate equal to the PEF's Rate Schedule COG-1 times the difference between the Committed Capacity and the actual energy received by PEF in that hour. If, in PEF's sole judgment, it is determined that the normal operation of the RF/QF requires it to cease operation or reduce its output, the charges in this Section 10.4 may be waived.

10.5 Dispatch and Control

10.5.1 Power supplied by the RF/QF hereunder shall be in the form of three-phase 60 hertz alternating current, at a nominal operating voltage of 13,800 volts (13.8 kV) and power factor dispatchable and controllable in the range of 90% lagging to 90% leading as measured at the interconnection point to maintain system operating parameters, including power factor, as specified from time to time by PEF.

10.5.2 The RF/QF shall operate the Facility with all system protective equipment in service whenever the Facility is connected to, or is operated in parallel with, PEF's system, except for normal testing and repair in accordance with good engineering and operating practices as agreed by the Parties. The RF/QF shall provide adequate system protection and control devices to ensure safe and protected operation of all energized equipment during normal testing and repair. All RF/QF facilities shall meet IEEE and industry standards. The RF/QF shall have independent, third party qualified personnel test, calibrate and certify in writing all protective equipment at least once every twelve (12) months in accordance with good engineering and operating practices. A unit functional trip test shall be performed after each overhaul of the Facility's turbine, generator or boilers and results provided to PEF in writing prior to returning the equipment to service. The specifics of the unit functional trip test will be consistent with good engineering and operating practices as agreed by the Parties.

- 10.5.3** If the Facility is separated from the PEF system for any reason, under no circumstances shall the RF/QF reconnect the Facility to PEF's system without first obtaining PEF'S specific approval.
- 10.5.4** During the term of this Contract, the RF/QF shall employ qualified personnel for managing, operating and maintaining the Facility and for coordinating such with PEF. The RF/QF shall ensure that operating personnel are on duty at all times, twenty-four (24) hours a calendar day and seven (7) calendar days a week. Additionally, during the term of this Contract, the RF/QF shall operate and maintain the Facility in such a manner as to ensure compliance with its obligations hereunder and in accordance with applicable law and Prudent Utility Practices.
- 10.5.5** PEF shall not be obligated to purchase, and may require curtailed or reduced deliveries of energy to the extent allowed under FPSC Rule 25-17.086 and under any curtailment plan which PEF may have on file with the FPSC from time to time.
- 10.5.6** During the term of this Contract, the RF/QF shall maintain sufficient fuel on the site of the Facility to deliver the capacity and energy associated with the Committed Capacity for an uninterrupted seventy-two-(72) hour period. At PEF's request, the RF/QF shall demonstrate this capability to PEF's reasonable satisfaction. During the term of this Contract, the RF/QF's output shall remain within a band of plus or minus ten percent (10%) of the daily output level or levels specified by the plant operator, in ninety percent (90%) of all operating hours under normal operating conditions. This calculation will be adjusted to exclude forced outage periods and periods during which the RF/QF's output is affected by a Force Majeure event.

11. Completion/Performance Security

- 11.1** Within ninety (90) days of the Execution Date, RF/QF shall deliver to PEF Eligible Collateral in an amount according to Table 2. RF/QF's Performance Security shall be maintained throughout the Term although the amount of Eligible Collateral shall be adjusted from time to time in accordance with Table 2 and Section 11.4. The listed amounts are considered the initial amounts and use 2008 as the Base Year, with all amounts expressed in US Dollars.

Note: The amounts in the following Table are for 2008 and are subject to change based on utility cost estimates for any year subsequent to the Base Year.

TABLE 2

Credit Class	Amount per MW	Amount per MW
	Years 1 - 5	Years 6 - 10
A- and Above	\$45,000	\$30,000
BBB+ to BBB	\$65,000	\$55,000
BBB-	\$90,000	\$80,000
Below BBB-	\$135,000	\$90,000

- 11.2** In the event that a Material Adverse Change occurs in respect of RF/QF, then within two (2) Business Day(s) RF/QF shall deliver to PEF Supplemental Eligible Collateral equal to 50 percent of the current Eligible Collateral amount, provided however, that in the PEF's sole discretion, based on a review of the overall circumstances of RF/QF's Material Adverse Change, the total of the Eligible Collateral and the Supplemental Eligible Collateral may be reduced but in no event shall the amount be less than the Base Performance Security Amount.
- 11.4** Performance Security Annual Adjustments – The RF/QF Performance Security shall be adjusted on an annual basis beginning January 1, 2010 and each year of during the term of the Agreement. The values in Table 2 will be adjusted using the change in the Gross Domestic Price Implicit Price Deflator (GDPIPD) between the Base Year and each year during the term as reported in the Survey of Current Business published in January each year and revised thereafter, by the Bureau of Economic Analysis, United States Department of commerce, Washington, D.C. using the following formula: Current Performance Security amount (CPSA) multiplied by one plus the change in the GDPIPD, $(CPSA \times (1 + \Delta GDPIPD))$
- 11.5** Replacement Collateral, Release of Collateral - Upon any reduction of the amount of RF/QF Performance Security pursuant to Section 11.2 or 11.3 the beneficiary thereof shall upon two (2) Business Days written request by the other Party release any Eligible or Supplemental Eligible Collateral that is no longer required. The choice of the type of Eligible Collateral by a Party may be selected from time to time by such Party and upon receipt of substitute Eligible Collateral, the holder of the Eligible Collateral for which the substitution is being made shall promptly release such Eligible Collateral. Following any termination of this agreement, the Parties shall mutually agree to a final settlement of all obligations under this Agreement which such period shall not exceed 90 days from such termination date unless extended by mutual agreement between the Parties. After such settlement, any remaining Eligible Collateral posted by a Party that has not been drawn upon by the other Party pursuant to its rights under this Contract shall be returned to such Party. Any dispute between the Parties regarding such final settlement shall be resolved according to applicable procedures set forth in Section 20.9.

- 11.6** Draws, Replenishment - A Non-Defaulting Party may draw upon Eligible Collateral or Supplemental Eligible Collateral provided by the other Party following the occurrence of an Event of Default by such other Party or pursuant to the other provisions of this Agreement in order to recover any damages to which such Non-Defaulting Party is entitled to under this Contract. In the event of such a draw then, except in the circumstance when this Contract otherwise terminates, the Defaulting Party shall within two (2) Business Days replenish the Eligible Collateral or Supplemental Eligible Collateral to the full amounts required by Table 2.
- 11.7** Reporting - RF/QF shall promptly notify PEF of any circumstance that results in RF/QF's failure to be in compliance with the RF/QF Performance Security Requirements of Section 11. From time to time, at PEF's written request, RF/QF shall provide PEF with such evidence as PEF may reasonably request, that RF/QF and any RF/QF Guarantor RF/QF Guarantee, Letter of Credit or Security Account is in Full Compliance with this agreement.

12. Termination Fee

12.1 In the event that the RF/QF receives Capacity Payments pursuant to Option B, Option C, or Option D of Appendix D, then upon the termination of this Contract, the RF/QF shall owe and be liable to PEF for the Termination Fee. The RF/QF's obligation to pay the Termination Fee shall survive the termination of this Contract. PEF shall provide the RF/QF, on a monthly basis, a calculation of the Termination Fee.

12.1.1 The Termination Fee shall be secured by the RF/QF by: (i) an unconditional, irrevocable, direct pay letter(s) of credit issued by a financial institution(s) with an investment grade credit rating in form and substance acceptable to PEF (including provisions (a) permitting partial and full draws and (b) permitting PEF to draw upon such Letter of Credit, in full, if such Letter of Credit is not renewed or replaced at least ten (10) Business Days prior to its expiration date); (ii) a bond issued by a financially sound company in form and substance acceptable to PEF; or (iii) a cash deposit with PEF (any of (i), (ii), or (iii), the "Termination Security"). The specific security instrument selected by the RF/QF for purposes of this Contract is:

- (XX) Unconditional, irrevocable, direct pay letter(s) of credit.
- () Bond.
- () Cash deposit(s) with PEF.

12.1.2 PEF shall have the right and the RF/QF shall be required to monitor the financial condition of (i) the issuer(s) in the case of any Letter of Credit and (ii) the insurer(s), in the case of any bond. In the event the senior debt rating of any issuer(s) or insurer(s) has deteriorated to a level below investment grade, PEF may require the RF/QF to replace the letter(s) of credit or the bond, as applicable. In the event that PEF notifies the RF/QF that it requires such a replacement, the replacement letter(s) of credit or bond, as applicable, must be issued by a financial institution(s) or insurer(s) with an investment grade credit rating, and meet the requirements of Section 12.1.1 within thirty (30) calendar days following such notification. Failure by the RF/QF to comply with the requirements of this Section 12.1.2 shall be grounds for PEF to draw in full on any existing Letter of Credit or bond and to exercise any other remedies it may have hereunder.

12.1.3 After the close of each calendar quarter (March 31, June 30, September 30, and December 31) occurring subsequent to the Capacity Delivery Date, upon PEF's issuance of the Termination Fee calculation as described in Section 12.1, the RF/QF must provide PEF, within ten calendar (10) days, written assurance and documentation (the "Security Documentation"), in form and substance acceptable to PEF, that the amount of the Termination Security is sufficient to cover the balance of the Termination Fee. In addition to the foregoing, at any time during the term of this Contract, PEF shall have the right to request and the RF/QF shall be obligated to deliver within five (5) calendar days of such request, such Security Documentation. Failure by the RF/QF to comply with the requirements of this Section 12.1.3 shall be grounds for PEF to draw in full on any existing Letter of Credit or bond or to retain any cash deposit, and to exercise any other remedies it may have hereunder.

12.1.4 Upon any termination of this Contract following the Capacity Delivery Date, PEF shall be entitled to receive (and in the case of the letter(s) of credit or bond, draw upon such letter(s) of credit or bond) and retain one hundred percent (100%) of the Termination Security.

13. Performance Factor

PEF desires to provide an incentive to the RF/QF to operate the Facility during on-peak and off-peak periods in a manner that approximates the projected performance of the Avoided Unit. A formula to achieve this objective is attached as Appendix A.

14. Default

Notwithstanding the occurrence of any Force Majeure as described in Section 18, each of the following shall constitute an Event of Default:

- (a) the RF/QF changes or modifies the Facility from that provided in Section 2 with respect to its type, location, technology or fuel source, without the prior written approval of PEF;
- (b) after the Capacity Delivery Date, the Facility fails for twelve (12) consecutive months to maintain an Annual Capacity Billing Factor, as described in Appendix A, of at least seventy one percent (69%);
- (c) the RF/QF fails to satisfy its obligations to maintain sufficient fuel on the site of the Facility to deliver the capacity and energy associated with the Committed Capacity for an uninterrupted seventy-two-(72) hour period under Section 10.5.6 hereof;
- (d) the RF/QF fails to provide the Completion/Performance Security and the Termination Fee and to comply with any of the provisions of Sections 11 and 12 hereof
- (e) the RF/QF, or the entity which owns or controls the RF/QF, ceases the conduct of active business; or if proceedings under the federal bankruptcy law or insolvency laws shall be instituted by or for or against the RF/QF or the entity which owns or controls the RF/QF; or if a receiver shall be appointed for the RF/QF or any of its assets or properties, or for the entity which owns or controls the RF/QF; or if any part of the RF/QF's assets shall be attached, levied upon, encumbered, pledged, seized or taken under any judicial process, and such proceedings shall not be vacated or fully stayed within thirty (30) calendar days thereof; or if the RF/QF shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due;
- (f) the RF/QF fails to give proper assurance of adequate performance as specified under this Contract within thirty (30) calendar days after PEF, with reasonable grounds for insecurity, has requested in writing such assurance;
- (g) the RF/QF fails to achieve licensing, certification, and all federal, state and local governmental, environmental, and licensing approvals required to initiate construction of the Facility by no later than the Completed Permits Date;
- (h) the RF/QF fails to comply with the provisions of Section 20.3 hereof;
- (i) any of the representations or warranties made by the RF/QF in this Contract is false or misleading in any material respect as of the time made;

- (j) if, at any time after the Capacity Delivery Date, the RF/QF reduces the Committed Capacity due to an event of Force Majeure and fails to repair the Facility and reset the Committed Capacity to the level set forth in Section 7.2 (as such level may be reduced by Section 7.4) within twelve (12) months following the occurrence of such event of Force Majeure; or
- (k) the RF/QF breaches any material provision of this Contract not specifically mentioned in this Section 14.

15. PEF's Rights in the Event of Default

15.1 Upon the occurrence of any of the Events of Default in Section 14, PEF may, at its option:

- 15.1.1** immediately terminate this Contract, without penalty or further obligation, except as set forth in Section 15.2, by written notice to the RF/QF, and offset against any payment(s) due from PEF to the RF/QF, any monies otherwise due from the RF/QF to PEF;
- 15.1.2** enforce the provisions of the Termination Security requirement pursuant to Section 12 hereof; and
- 15.1.3** exercise any other remedy(ies) which may be available to PEF at law or in equity.

15.2 Termination shall not affect the liability of either Party for obligations arising prior to such termination or for damages, if any, resulting from any breach of this Contract.

16. Indemnification

16.1 PEF and the RF/QF shall each be responsible for its own facilities. PEF and the RF/QF shall each be responsible for ensuring adequate safeguards for other PEF customers, PEF's and the RF/QF's personnel and equipment, and for the protection of its own generating system. Each Party (the "Indemnifying Party") agrees, to the extent permitted by applicable law, to indemnify, pay, defend, and hold harmless the other Party (the "Indemnified Party") and its officers, directors, employees, agents and contractors (hereinafter called respectively, "PEF Entities" and "RF/QF Entities") from and against any and all claims, demands, costs or expenses for loss, damage, or injury to persons or property of the Indemnified Party (or to third parties) directly caused by, arising out of, or resulting from:

- (a) a breach by the Indemnifying Party of its covenants, representations, and warranties or obligations hereunder;
- (b) any act or omission by the Indemnifying Party or its contractors, agents, servants or employees in connection with the installation or operation of its generation system or the operation thereof in connection with the other Party's system;
- (c) any defect in, failure of, or fault related to, the Indemnifying Party's generation system;
- (d) the negligence or willful misconduct of the Indemnifying Party or its contractors, agents, servants or employees; or
- (e) any other event or act that is the result of, or proximately caused by, the Indemnifying Party or its contractors, agents, servants or employees related to the Contract or the Parties' performance thereunder.

16.1 Payment by an Indemnified Party to a third party shall not be a condition precedent to the obligations of the Indemnifying Party under Section 16. No Indemnified Party under Section 16 shall settle any claim for which it claims indemnification hereunder without first allowing the Indemnifying Party the right to defend such a claim. The Indemnifying Party shall have no obligations under Section 16 in the event of a breach of the foregoing sentence by the Indemnified Party. Section 16 shall survive termination of this Agreement.

17. Insurance

- 17.1** The RF/QF shall procure or cause to be procured and shall maintain throughout the entire Term of this Contract, a policy or policies of liability insurance issued by an insurer acceptable to PEF on a standard "Insurance Services Office" commercial general liability form (such policy or policies, collectively, the "RF/QF Insurance"). An original certificate of insurance shall be delivered to PEF at least fifteen (15) calendar days prior to the start of any interconnection work. At a minimum, the RF/QF Insurance shall contain (a) an endorsement providing coverage, including products liability/completed operations coverage for the term of this Contract, and (b) a broad form contractual liability endorsement covering liabilities (i) which might arise under, or in the performance or nonperformance of, this Contract and the Interconnection Agreement, or (ii) caused by operation of the Facility or any of the RF/QF's equipment or by the RF/QF's failure to maintain the Facility or the RF/QF's equipment in satisfactory and safe operating condition. Effective at least fifteen (15) calendar days prior to the synchronization of the Facility with PEF's system, the RF/QF Insurance shall be amended to include coverage for interruption or curtailment of power supply in accordance with industry standards. Without limiting the foregoing, the RF/QF Insurance must be reasonably acceptable to PEF. Any premium assessment or deductible shall be for the account of the RF/QF and not PEF.
- 17.2** The RF/QF Insurance shall have a minimum limit of one million dollars (\$1,000,000.00) per occurrence, combined single limit, for bodily injury (including death) or property damage.
- 17.3** To the extent that the RF/QF Insurance is on a "claims made" basis, the retroactive date of the policy(ies) shall be the Effective Date of this Contract or such other date as may be agreed upon to protect the interests of the PEF Entities and the RF/QF Entities. Furthermore, to the extent the RF/QF Insurance is on a "claims made" basis, the RF/QF's duty to provide insurance coverage shall survive the termination of this Contract until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. To the extent the RF/QF Insurance is on an "occurrence" basis, such insurance shall be maintained in effect at all times by the RF/QF during the term of this Contract.
- 17.4** The RF/QF Insurance shall provide that it may not be cancelled or materially altered without at least thirty (30) calendar days' written notice to PEF. The RF/QF shall provide PEF with a copy of any material communication or notice related to the RF/QF Insurance within ten (10) Business Days of the RF/QF's receipt or issuance thereof.

17.5 The RF/QF shall be designated as the named insured and PEF shall be designated as an additional named insured under the RF/QF Insurance. The RF/QF Insurance shall be endorsed to be primary to any coverage maintained by PEF.

18. Force Majeure

18.1 "Force Majeure" is defined as an event or circumstance that is not reasonably foreseeable, is beyond the reasonable control of and is not caused by the negligence or lack of due diligence of the Party claiming Force Majeure or its contractors or suppliers and adversely affects the performance by that Party of its obligations under or pursuant to this agreement. Such events or circumstances may include, but are not limited to, actions or inactions of civil or military authority (including courts and governmental or administrative agencies), acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, explosions and fires not originating in the Facility or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes or difficulties (not caused by the failure of the affected party to comply with the terms of a collective bargaining agreement). Force Majeure shall not be based on (i) the loss of PEF's markets; (ii) PEF's economic inability to use or resell the Capacity and Energy purchased hereunder; or (iii) RF/QF's inability to sell the Capacity or Energy at a price greater than the price herein. Equipment breakdown or inability to use equipment caused by its design, construction, operation, maintenance or inability to meet regulatory standards, or otherwise caused by an event originating in the control of a Party, or a Party's failure to obtain on a timely basis and maintain a necessary permit or other regulatory approval, shall not be considered an event of Force Majeure, unless such Party can reasonably demonstrate, to the reasonable satisfaction of the non-claiming Party, that the event was not reasonably foreseeable, was beyond the Party's reasonable control and was not caused by the negligence or lack of due diligence of the Party claiming Force Majeure or its agents, contractors or suppliers and adversely affects the performance by that Party of its obligations under or pursuant to this agreement.

18.2 Except as otherwise provided in this Contract, each Party shall be excused from performance when its nonperformance was caused, directly or indirectly by an event of Force Majeure.

18.3 In the event of any delay or nonperformance resulting from an event of Force Majeure, the Party claiming Force Majeure shall notify the other Party in writing within five (5) Business Days of the occurrence of the event of Force Majeure, of the nature cause, date of commencement thereof and the anticipated extent of such delay, and shall indicate whether any deadlines or date(s), imposed hereunder may be affected thereby. The suspension of performance shall be of no greater scope and of no greater duration than the cure for the Force Majeure requires. A Party claiming Force Majeure shall not be entitled to any relief therefore unless and until conforming notice is provided. The Party claiming Force Majeure shall notify the other Party of the cessation of the event of Force Majeure or of the conclusion of the affected Party's cure for the event of Force Majeure in either case within two (2) Business Days thereof.

- 18.4** The Party claiming Force Majeure shall use its best efforts to cure the cause(s) preventing its performance of this Contract; provided, however, the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the affected Party and such Party shall not be required to settle such strikes, lockouts or other labor disputes by acceding to demands which such Party deems to be unfavorable.
- 18.5** If the RF/QF suffers an occurrence of an event of Force Majeure that reduces the generating capability of the Facility below the Committed Capacity, the RF/QF may, upon notice to PEF temporarily adjust the Committed Capacity as provided in Sections 18.5 and 18.6. Such adjustment shall be effective the first calendar day immediately following PEF's receipt of the notice or such later date as may be specified by the RF/QF. Furthermore, such adjustment shall be the minimum amount necessitated by the event of Force Majeure.
- 18.6** If the Facility is rendered completely inoperative as a result of Force Majeure, the RF/QF shall temporarily set the Committed Capacity equal to 0 kW until such time as the Facility can partially or fully operate at the Committed Capacity that existed prior to the Force Majeure. If the Committed Capacity is 0 kW, PEF shall have no obligation to make Capacity Payments hereunder.
- 18.7** If, at any time during the occurrence of an event of Force Majeure or during its cure, the Facility can partially or fully operate, then the RF/QF shall temporarily set the Committed Capacity at the maximum capability that the Facility can reasonably be expected to operate.
- 18.8** Upon the cessation of the event of Force Majeure or the conclusion of the cure for the event of Force Majeure, the Committed Capacity shall be restored to the Committed Capacity that existed immediately prior to the Force Majeure. Notwithstanding any other provisions of this Contract, upon such cessation or cure, PEF shall have right to require a Committed Capacity Test to demonstrate the Facility's compliance with the requirements of this Section 18.8. Any such Committed Capacity Test required by PEF shall be additional to any Committed Capacity Test under Section 7.4.
- 18.9** During the occurrence of an event of Force Majeure and a reduction in Committed Capacity under Section 18.4 all Monthly Capacity Payments shall reflect, pro rata, the reduction in Committed Capacity, and the Monthly Capacity Payments will continue to be calculated in accordance with the pay-for-performance provisions in Appendix A.

18.10 The RF/QF agrees to be responsible for and pay the costs necessary to reactivate the Facility and/or the interconnection with PEF's system if the same is (are) rendered inoperable due to actions of the RF/QF, its agents, or Force Majeure events affecting the RF/QF, the Facility or the interconnection with PEF. PEF agrees to reactivate, at its own cost, the interconnection with the Facility in circumstances where any interruptions to such interconnections are caused by PEF or its agents.

19. Representations, Warranties, and Covenants of RF/QF

The RF/QF represents and warrants that as of the Effective Date:

19.1 Organization, Standing and Qualification

The RF/QF is a corporation (corporation, partnership, or other, as applicable) duly organized and validly existing in good standing under the laws of Florida and has all necessary power and authority to carry on its business as presently conducted to own or hold under lease its properties and to enter into and perform its obligations under this Contract and all other related documents and agreements to which it is or shall be a Party. The RF/QF is duly qualified or licensed to do business in the State of Florida and in all other jurisdictions wherein the nature of its business and operations or the character of the properties owned or leased by it makes such qualification or licensing necessary and where the failure to be so qualified or licensed would impair its ability to perform its obligations under this Contract or would result in a material liability to or would have a material adverse effect on PEF.

19.2 Due Authorization, No Approvals, No Defaults

Each of the execution, delivery and performance by the RF/QF of this Contract has been duly authorized by all necessary action on the part of the RF/QF, does not require any approval, except as has been heretofore obtained, of the shareholders (shareholders, partners, or others, as applicable) of the RF/QF or any consent of or approval from any trustee, lessor or holder of any indebtedness or other obligation of the RF/QF, except for such as have been duly obtained, and does not contravene or constitute a default under any law, the articles of incorporation (articles of incorporation, bylaws, or other as applicable) of the RF/QF, or any agreement, judgment, injunction, order, decree or other instrument binding upon the RF/QF, or subject the Facility or any component part thereof to any lien other than as contemplated or permitted by this Contract.

19.3 Compliance with Laws

The RF/QF has knowledge of all laws and business practices that must be followed in performing its obligations under this Contract. The RF/QF is in compliance with all laws, except to the extent that failure to comply therewith would not, in the aggregate, have a material adverse effect on the RF/QF or PEF.

19.4 Governmental Approvals

Except as expressly contemplated herein, neither the execution and delivery by the RF/QF of this Contract, nor the consummation by the RF/QF of any of the transaction contemplated thereby, requires the consent or approval of, the giving of notice to, the registration with, the recording or filing of any document with, or the taking of any other action with respect to governmental authority, except with respect to permits (a) which have already been obtained and are in full force and effect or (b) are not yet required (and with respect to which the RF/QF has no reason to believe that the same will not be readily obtainable in the ordinary course of business upon due application therefore).

19.5 No Suits, Proceedings

There are no actions, suits, proceedings or investigations pending or, to the knowledge of the RF/QF, threatened against it at law or in equity before any court or tribunal of the United States or any other jurisdiction which individually or in the aggregate could result in any materially adverse effect on the RF/QF's business, properties, or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under this Contract. The RF/QF has no knowledge of a violation or default with respect to any law which could result in any such materially adverse effect or impairment.

19.6 Environmental Matters

To the best of its knowledge after diligent inquiry, the RF/QF knows of no (a) existing violations of any environmental laws at the Facility, including those governing hazardous materials or (b) pending, ongoing, or unresolved administrative or enforcement investigations, compliance orders, claims, demands, actions, or other litigation brought by governmental authorities or other third parties alleging violations of any environmental law or permit which would materially and adversely affect the operation of the Facility as contemplated by this Contract.

20. General Provisions

20.1 Project Viability

To assist PEF in assessing the RF/QF's financial and technical viability, the RF/QF shall provide the information and documents requested in Appendix C or substantially similar documents, to the extent the documents apply to the type of Facility covered by this Contract and to the extent the documents are available. All documents to be considered by PEF must be submitted at the time this Contract is presented to PEF. Failure to provide the following such documents may result in a determination of non-viability by PEF.

20.2 Permits

The RF/QF hereby agrees to obtain and maintain any and all permits, certifications, licenses, consents or approvals of any governmental authority which the RF/QF is required to obtain as a prerequisite to engaging in the activities specified in this Contract.

20.3 Project Management

If requested by PEF, the RF/QF shall submit to PEF its integrated project schedule for PEF's review within sixty (60) calendar days from the execution of this Contract, and a start-up and test schedule for the Facility at least sixty (60) calendar days prior to start-up and testing of the Facility. These schedules shall identify key licensing, permitting, construction and operating milestone dates and activities. If requested by PEF, the RF/QF shall submit progress reports in a form satisfactory to PEF every calendar month until the Capacity Delivery Date and shall notify PEF of any changes in such schedules within ten (10) calendar days after such changes are determined. PEF shall have the right to monitor the construction, start-up and testing of the Facility, either on-site or off-site. PEF's technical review and inspections of the Facility and resulting requests, if any, shall not be construed as endorsing the design thereof or as any warranty as to the safety, durability or reliability of the Facility.

The RF/QF shall provide PEF with the final designer's/manufacture's generator capability curves, protective relay types, proposed protective relay settings, main one-line diagrams, protective relay functional diagrams, and alternating current and direct elementary diagrams for review and inspection at PEF no later than one hundred eighty (180) calendar days prior to the initial synchronization date.

20.4 Assignment

Either Party may not assign this Contract, without the other Party's prior written approval, which approval may not be unreasonably withheld or delayed.

20.5 Disclaimer

In executing this Contract, PEF does not, nor should it be construed, to extend its credit or financial support for benefit of any third parties lending money to or having other transactions with the RF/QF or any assigns of this Contract.

20.6 Notification

All formal notices relating to this Contract shall be deemed duly given when delivered in person, or sent by registered or certified mail, or sent by fax if followed immediately with a copy sent by registered or certified mail, to the individuals designated below. The Parties designate the following individuals to be notified or to whom payment shall be sent until such time as either Party furnishes the other Party written instructions to contact another individual:

For the RF/QF:

Russell W. Spitz, President
Vision Power Systems, Inc.
3733 Crown Point Road
Jacksonville, Florida 32257

For PEF:

Progress Energy Florida
Cogeneration Manager PEF 155
299 First Avenue North
St. Petersburg, FL 33701

Contracts and related documents may be mailed to the address below or delivered during normal business hours (8:00 a.m. to 4:45 p.m.) to the visitors' entrance at the address below:

Florida Power Corporation
d/b/a Progress Energy Florida, Inc.
299 First Avenue North
St. Petersburg, FL 33701

Attention: Cogeneration Manager PEF 155

20.7 Applicable Law

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

20.8 Taxation

In the event that PEF becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Services determination, through audit, ruling or other authority, that PEF's payments to the RF/QF for Capacity under Options B, C, or D of the Appendix D are not fully deductible when paid (additional tax liability), PEF may bill the RF/QF monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these Capacity Payments are not currently deductible for federal and/or state income tax purposes. PEF, at its option, may offset or recoup these costs against amounts due the RF/QF hereunder. These costs would be calculated so as to place PEF in the same economic position in which it would have been if the entire Capacity Payments had been deductible in the period in which the payments were made. If PEF decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with PEF.

20.9 Resolution of Disputes

20.9.1 Notice of Dispute

In the event that any dispute, controversy or claim arising out of or relating to this Contract or the breach, termination or validity thereof should arise between the Parties (a "Dispute"), the Party may declare a Dispute by delivering to the other Party a written notice identifying the disputed issue.

20.9.2 Resolution by Parties

Upon receipt of a written notice claiming a Dispute, executives of both Parties shall meet at a mutually agreeable time and place within ten (10) Business Days after delivery of such notice and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute. In such meetings and exchanges, a Party shall have the right to designate as confidential any information that such Party offers. No confidential information exchanged in such meetings for the purpose of resolving a Dispute may be used by a Party in litigation against the other Party. If the matter has not been resolved within thirty (30) Days of the disputing Party's notice having been issued, or if the Parties fail to meet within ten (10) Business Days as required above, either Party may initiate binding arbitration in St. Petersburg, Florida, conducted in accordance with the then current American Arbitration Association's ("AAA") Large, Complex Commercial Rules or other mutually agreed upon procedures.

20.10 Limitation of Liability

IN NO EVENT SHALL PEF, ITS PARENT CORPORATION, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR MULTIPLE DAMAGES RESULTING FROM ANY CLAIM OR CAUSE OF ACTION, WHETHER BROUGHT IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER LEGAL THEORY.

20.11 Severability

If any part of this Contract, for any reason, is declared invalid or unenforceable by a public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of the Contract, which remainder shall remain in force and effect as if this Contract had been executed without the invalid or unenforceable portion.

20.12 Complete Agreement and Amendments

All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Contract are hereby abrogated. No amendment or modification to this Contract shall be binding unless it shall be set forth in writing and duly executed by both Parties. This Contract constitutes the entire agreement between the Parties.

20.13 Survival of Contract

Subject to the requirements of Section 20.4, this Contract, as it may be amended from time to time, shall be binding upon, and inure to the benefit of, the Parties' respective successors-in-interest and legal representatives.

20.14 Record Retention

The RF/QF shall maintain for a period of five (5) years from the date of termination hereof all records relating to the performance of its obligations hereunder, and to cause all RF/QF Entities to retain for the same period all such records.

20.15 No Waiver

No waiver of any of the terms and conditions of this Contract shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to insist, in any instance, on the strict performance of any of the terms and conditions hereof shall not be construed as a waiver of such Party's right in the future to insist on such strict performance.

20.16 Set-Off

PEF may at any time, but shall be under no obligation to, set off or recoup any and all sums due from the RF/QF against sums due to the RF/QF hereunder without undergoing any legal process.

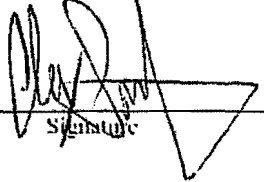
20.17 Change in Environmental Law or Other Regulatory Requirements

- (a) As used herein, "Change(s) in Environmental Law or Other Regulatory Requirements" means the enactment, adoption, promulgation, implementation, or issuance of, or a new or changed interpretation of, any statute, rule, regulation, permit, license, judgment, order or approval by a governmental entity that specifically addresses environmental or regulatory issues and that takes effect after the Effective Date.
- (b) The Parties acknowledge that Change(s) in Environmental Law or Other Regulatory Requirements could significantly affect the cost of the Avoided Unit ("Avoided Unit Cost Changes") and agree that, if any such change(s) should affect the cost of the Avoided Unit more than the Threshold defined in Section 20.17(c) below, the Party affected by such change(s) may avail itself of the remedy set forth in Section 20.17(d) below as its sole and exclusive remedy.
- (c) The Parties recognize and agree that certain Change(s) in Environmental Law or Other Regulatory Requirements may occur that do not rise to a level that the Parties desire to impact this Agreement. Accordingly, the Parties agree that for the purposes of this Agreement, such change(s) will not be deemed to have occurred unless there is an increase in the Avoided Cost resulting from such change(s) greater than 12.00% over the Avoided Unit cost contemplated as of the Execution Date (the "Threshold").

- (d) If an Avoided Unit Cost Change meets the threshold set forth in Section 20.17(c) above, the affected Party may request the avoided cost payments under this Contract be recalculated and that the avoided cost payments for the remaining term of the Contract be adjusted based on the recalculation. Any dispute regarding the application of this Section 20.17 shall be resolved in accordance with Section 20.9.

IN WITNESS WHEREOF, the RE QF and PEF executed this Contract on the later of the dates set forth below.

Vision / FL I LLC



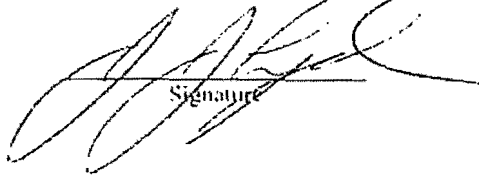
Signature

Alexander W. Spitz

President

7/08/09
Date

FLORIDA POWER CORPORATION d/b/a
PROGRESS ENERGY FLORIDA, INC.



Signature

Jeffrey J. Lyash

President and CEO - PEF

6/30/09
Date

APPENDIX A
TO
PROGRESS ENERGY FLORIDA
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
NEGOTIATED CONTRACT

MONTHLY CAPACITY PAYMENT CALCULATION

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

- A. In the event that the ACBF is less than 69%, then no Monthly Capacity Payment shall be due. That is:

$$\text{MCP} = 0$$

- B. In the event that the ACBF is equal to or greater than 69% but less than 89%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$\text{MCP} = \text{BCP} \times [1 - [5 \times (.89 - \text{ACBF})]] \times \text{CC}$$

- C. In the event that the ACBF is equal to or greater than 89%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$\text{MCP} = \text{BCP} \times \text{CC}$$

Where:

MCP = Monthly Capacity Payment in dollars.

BCP = Base Capacity Payment in \$/kW/Month as specified in Appendix D.

CC = Committed Capacity in kW.

ACBF = Annual Capacity Billing Factor. The ACBF shall be the electric energy actually received by PEF for the 12 consecutive months preceding the date of calculation excluding any energy received during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW, divided by the product of the Committed Capacity and the number of hours in the 12 consecutive months preceding the date of calculation excluding the hours during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW. If an event of Force Majeure occurs during the 12 consecutive months preceding the date of calculation in which the Committed Capacity is temporarily set to a value greater than 0 kW then the 12 month rolling average will be pro-rated accordingly. During the first 12 consecutive Monthly Billing Periods commencing with the first Monthly Billing Period in which Capacity Payments are to be made, the calculation of 12-month rolling average ACBF shall be performed as follows (a) during the first Monthly Billing Period, the ACBF shall be equal to the Monthly Availability Factor; (b) thereafter, the calculation of the ACBF shall be computed by electric energy actually received by PEF for the number of full consecutive months preceding the date of calculation excluding any energy received during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW, divided by the product of the Committed Capacity and the number of hours in the number of full consecutive months preceding the date of calculation excluding the hours during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW. If an event of Force Majeure occurs during the months preceding the date of calculation in which the Committed Capacity is temporarily set to a value greater than 0 kW then the 12 month rolling average will be pro-rated accordingly. This calculation shall be performed at the end of each Monthly Billing Period until enough Monthly Billing Periods have elapsed to calculate a true 12-month rolling average ACBF.

MAF = Monthly Availability Factor. The total energy received during the Monthly Billing Period for which the calculation is made, divided by the product of Committed Capacity times the total hours during the Monthly Billing Period.

Monthly Billing Period = The period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m., on the Capacity Delivery Date and ending with the last calendar day of such month.

**APPENDIX B
TO
PROGRESS ENERGY FLORIDA
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
NEGOTIATED CONTRACT**

TERMINATION FEE

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

The "Termination Fee" shall be the sum of the values for each month beginning with the month in which the Capacity Delivery Date occurs through the month of the Termination Date (or month of calculation, as the case may be) computed according to the following formula:

$$\sum_{i=1}^n (MCP_i - MCPC_i) \cdot (1 + r)^{(n-i)}$$

with: MCPC = 0 for all periods prior to the in-service date of the Avoided Unit:

where

- i = number of Monthly Billing Period commencing with the Capacity Delivery Date (i.e., the month in which Capacity Delivery Date occurs = 1; the month following this month in which Capacity Delivery Date occurs = 2 etc.)
- n = the number of Monthly Billing Periods which have elapsed from the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be)
- r = PEF's incremental after-tax avoided cost of capital (defined as r in Appendix D).
- MCP_i = Monthly Capacity Payment paid to RF/QFQF corresponding to the Monthly Billing Period i, calculated in accordance with Appendix A.
- MCPC_i = Monthly Capacity Payment for Option A corresponding to the Monthly Billing Period i, calculated in accordance with this Contract.

In the event that for any Monthly Billing Period, the computation of the value of the Termination Fee for such Monthly Billing Period (as set forth above) yields a value equal to or greater than zero, the amount of the Termination Fee shall be increased by the amount of such value.

In the event that for any Monthly Billing Period, the computation of the value of the Termination Fee for such Monthly Billing Period (as set forth above) yields a value less than zero, the amount of the Termination Fee shall be decreased by the amount of such value expressed as a positive number (the "Initial Reduction Value"); provided, however, that such Initial Reduction Value shall be subject to the following adjustments (the Initial Reduction Value, as adjusted, the "Reduction Value"):

- a. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor, as defined in Appendix A is less than 69%, then the Initial Reduction Value shall be adjusted to equal zero (Reduction Value = 0), and the Termination Fee shall not be reduced for the applicable Monthly Billing Period.
- b. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor , as defined in Appendix A, is equal to or greater than 69% but less than 89%, than the Reduction Value shall be determined as follows:

$$\text{Reduction Value} = \text{Initial Reduction Value} \times [5 \times (.89 - \text{ACBF})]$$

For the applicable Monthly Billing period, the Termination Fee shall be reduced by the amount of such Reduction Value.

- c. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor, as defined in Appendix A, is equal to or greater than 89%, then the Initial Reduction Value shall not be adjusted (Reduction Value = Initial Reduction Value), and the Termination Fee shall be reduced for the applicable Monthly Billing period by the amount of the Initial Reduction Value.

In no event shall PEF be liable to the RF/QF at any time for any amount by which the Termination Fee, adjusted in accordance with the foregoing, is less than zero (0).

**APPENDIX C
TO
PROGRESS ENERGY FLORIDA
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
NEGOTIATED CONTRACT**

DETAILED PROJECT INFORMATION

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

Each eligible Contract received by PEF will be evaluated to determine if the underlying RF/QF project is financially and technically viable. The RF/QF shall, to the extent available, provide PEF with a detailed project proposal which addresses the information requested below:

I. FACILITY DESCRIPTION

- Project Name Vision / FL I LLC
- Project Location Osceola County, West of Yeehaw JCT and south of HWY 60

* Street Address TBD

* Size Plot Plan 29,000 acres

* Legal Description of Site TBD

- Generating Technology Steam Turbine
- Primary Fuel Closed Loop Sweet Sorghum Bagasse
- Alternate Fuel (if applicable) n/a
- Committed Capacity 40 MW
- Expected In-Service Date 16 – 18 months after signed and approval by PSC Contract

• Contact Person Russell W. Spitz

* Individual's Name and Title Russell W. Spitz, President

* Company Name Vision / FL I LLC, a wholly owned subsidiary of Vision Power Systems, Inc.

* Address 3733 Crown Point Road, Jacksonville, FL 32257

* Telephone Number (904) 288-6516

* Fax Number (904) 260-4515

II. PROJECT PARTICIPANTS

- Indicate the entities responsible for the following project management activities and provide a detailed description of the experience and capabilities of the entities:

APPENDIX C II PROJECT PARTICIPANTS

Project Development	Vision Power Systems, Inc.
Siting and Licensing the Facility	Vision Power Systems, Inc.
Designing the Facility	Vision Power Systems, Inc Tomsa Destil.
Constructing the Facility	Vision Power Systems, Inc. Tomsa Destil
Securing the Fuel Supply	Vision Power Systems, Inc.
Operating the Facility	Vision Power Systems, Inc.

APPENDIX C II

VISION POWER SYSTEMS, INC. ELECTRICAL FACILITIES

<u>Plant</u>	<u>#</u>	<u>EQUIPMENT</u>				
V/SOB	4	900 kW Gensets				
V/AMER	4	1500 kW Gensets				
V/BUSH	2	900 kW Gensets				
V/Z	3	900 kW Gensets				
V/NE	2	140,000 LBS/H	650/750	&	1	6 MW BPT
V/REN	2	120,000 LBS/H	650/750	&	1	5 MW T BPT
V/ER	2	100,000/LBS	600/750	&	1	4 MW BPT
V/ZW	3	180,000 LBS/H	600/750	&	1	2.5 MW COND T
V/DAM	2	110,000 LBS/H	600/750	&	1	7 MW BPT
	1	250,000 LBS/H	1000/1200	&	1	18 MW COND T

FINANCING STRUCTURE:

Non-recourse, fixed rate, 10 Year Term Loans, for 100% of Capital Costs. Based on 10 Year Initial Term PPA with host clients that contain "Hell or High Water, Take or Pay" monthly payments that amortize all debt in 10 Years.

APPENDIX C III FUEL SUPPLY

Closed Loop Sweet Sorghum Bagasse 8,000 BTUs Dry
Sulfur .01% Ash 7%

This is a combined Ethanol / Electric Power Plant where the sweet sorghum is stripped of its sugar juice to be converted into Ethanol and the remaining stacks of Closed Loop Bagasse is used for the Power Plant Fuel.

The Sweet Sorghum will be grown by Vision on 29,000 acres with two crops per acre per year which provides a 10% safety factor.

The acreage will either be with a long term lease or owned.

100% of the AFR is covered by this fuel arrangement.

The Power Plant is situated within the 29,000 acres.

The fuel is harvested by the company on a daily basis and hauled to the on-site Ethanol / Power Plant by the company's own trucks.

This a closed loop system with everything required for operations contain within the acreage and operated by the company.

50 MW will be provided of which 40 MW will be exported to PEF.

A minimum of 158 acres will be harvested daily with each acre providing 17.5 tons Bagasse which will produce 550,000 LBS/H 600/750 Steam and 50 MW.

A five day 120 hour backup supply of Bagasse will be maintained at the power plant at all times.

APPENDIX C IV PLANT DISPATCHABILITY / CONTROLLABILITY

Ramp Rate (MW/Minute): (0.825MW/Minute)

Our generator control package will allow a ramp rate of between 0.33 and 20 percent of generator rated load per minute. Assuming a 25MW generator; this allows us an 825KW minimum and a 5MW maximum. Given that ramp rate directly affects number of cycles and equipment wear a minimum ramp rate is suggested. At a rate of 0.825 MW per minute this would allow us to reach full load in 30 minutes.

Peak Capacity: 50 MW 25% over Committed Capacity

Minimum Power Level:

With the closed loop system, minimum 5 day supply of Bagasse.
5 Boiler System with 1 spare. Minimum power 40MW.

Facility Turnaround time (Hot to Hot) in Hours:

Due to the unique features of Vision's gasification process, Hot to Hot Turnaround is two (2) hours or less, including ramp time.

Start-Up Time from Cold Shutdown in Hours:

7 hours, including ramp time.

Unit Cycling (#cycles/yr): (6)(unit)

This plant will be a low cycle design with an estimated accumulative downtime for hot, warm, and cold cycles not to exceed 100 hrs/yr, (unit) for the first 5 to 7 years. All cycling will be staggered to insure at least one 25MW unit online at all times. After the first 5 to 7 year period of operation and considering normal operating hours, a 10-15% increase of cycles can be expected. Given normal operating conditions it is estimated that we will incur (6) cycles per year (Hot, Warm, and Cold combined) that will not exceed 100 hours total.

MW and MVAR Control:

Our control system is an automatic control scheme using a series of Basler relays (BE1-1051, BE1-GPS-100, DECS-300-N) Honeywell HC 900, and Wonderware HMI. Our system allows real time control of MW, MVARs, and Breaker control and protection schemes as required.

APPENDIX C V SITING AND LICENSING

Zoning Ethanol / Power Plant	2-3 months
Construction Permit	2-3 months
Emissions Permit	6-8 months
Water Use	38,000 Gallons Per Hou
Process Wastewater Discharge	Field Applied
Wetlands	n/a
Endangered Species	n/a
Protected Properties	n/a
Surrounding Land Use	28,000 Acres Agricultur
Facility is Supported	

EMISSIONS

Pollutant	Tons Per Year
PM10	28.58
SO2	28.62
Nox	153.73
CO	132.44
TOC	92.24
VOC	40.21

Effluent – Field Applied

APPENDIX C VI FACILITY DEVELOPMENT AND PERFORMANCE

ENGINEERING

Principally complete, power plant by Vision, ethanol by Tomsa Destil.

PROCUREMENT

Site acquisition:

Within 30 days of signed and approved contract.

Equipment:

Within 15 days of signed and approved contract.

Engineering:

Vision and Tomsa Destil.

Operator:

Vision

CONSTRUCTION

16 to 18 months after signed and approved contract.

START-UP AND COMERCIAL OPERATION

Included in total construction time-frame.

EQUIPMENT

Ethanol plant equipment provided by Tomsa Destil.

Power Plant

Gasifier and fuel handling by Vision.

Boilers by Rentech

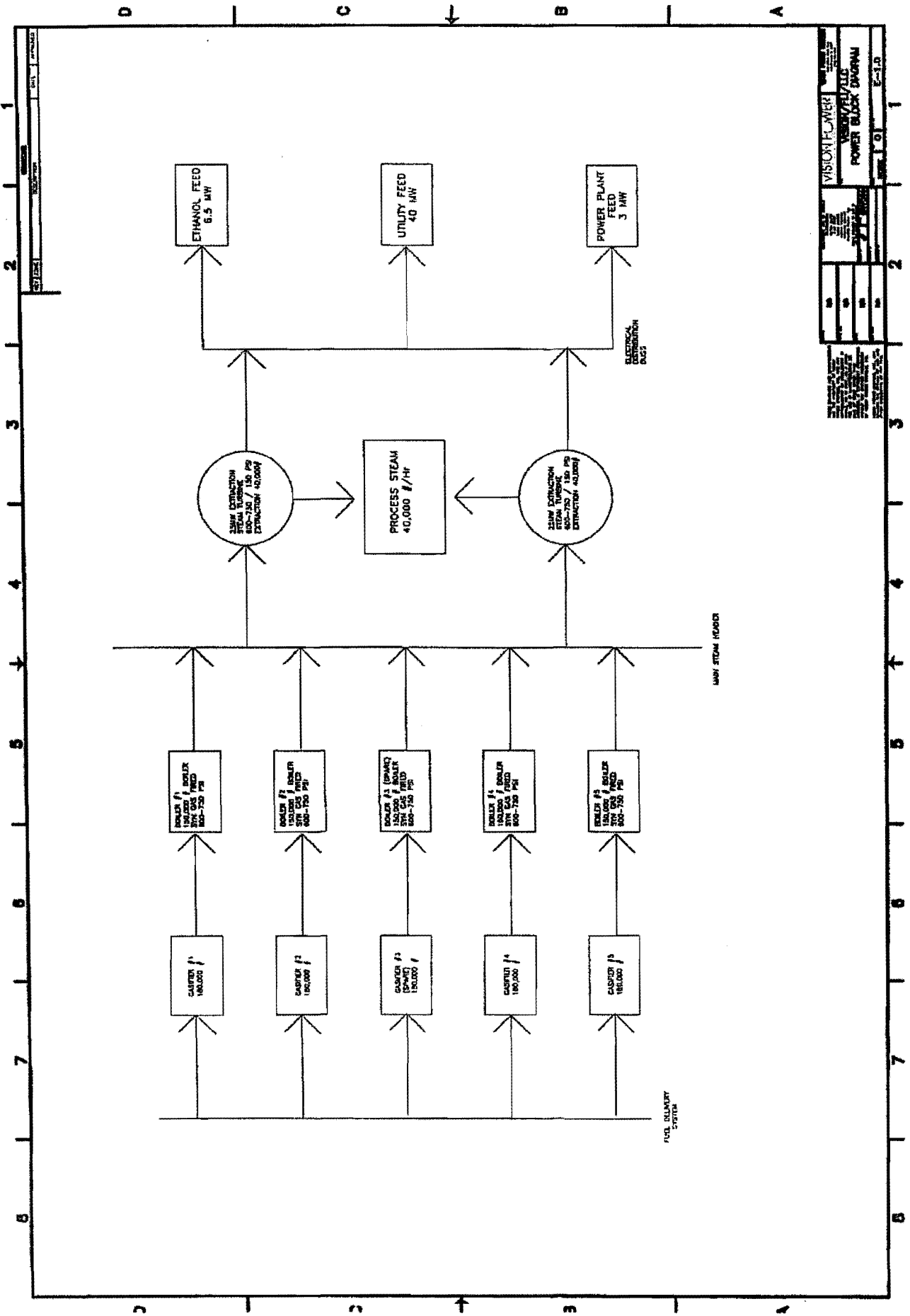
Turbines by Dresser-Rand.

ENVIRONMENT CONTROL TECHNOLOGY

CO² from Ethanol Plant captured by CO² Plant, Baghouse installed for boilers.

EXPECTED HEAT RATE

11,113 BTUs/kWh



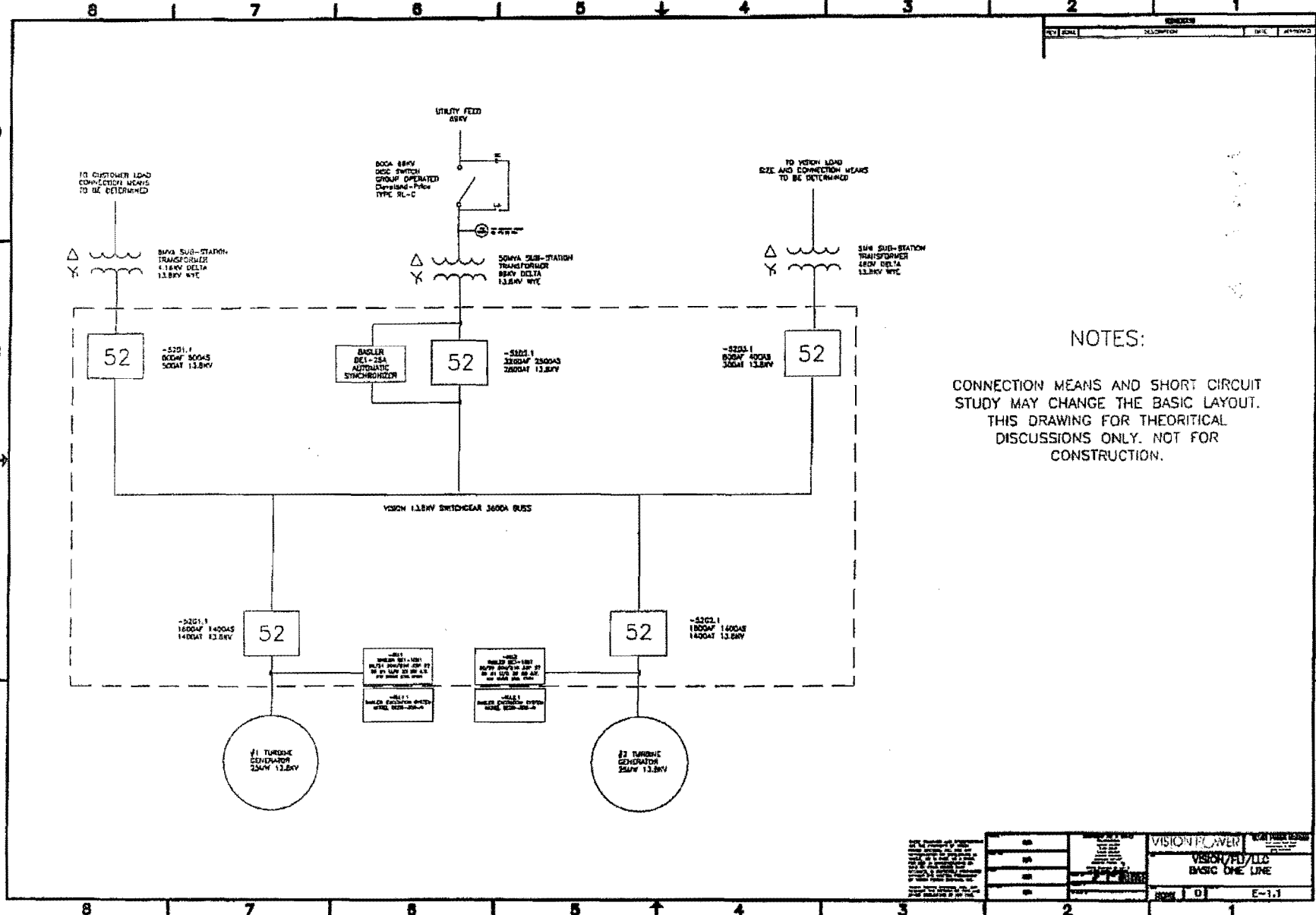
VISION PLANNER

VISION/PLD

POWER BLOCK DIAGRAM

E-1.R

NO.	DATE	DESCRIPTION
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		



NOTES:

CONNECTION MEANS AND SHORT CIRCUIT STUDY MAY CHANGE THE BASIC LAYOUT. THIS DRAWING FOR THEORETICAL DISCUSSIONS ONLY. NOT FOR CONSTRUCTION.

<small>REVISIONS</small> NO. DESCRIPTION DATE APPROVED 1 2 3		VISION POWER VISION/PL/LLS BASIC ONE LINE SHEET 01 E-1.1	
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APPENDIX C VII FINANCIAL

Permanent Financing Term	10 Year
Project Capital Structure (percentage of long-term debt, subordinated debt, tax Exempt debt and equity)	100% long term debt
Financing Costs (costs of long-term debt subordinated debt, tax exempt debt and equity)	2 % Closing Costs 7 % Interest
Annual Interest Expense	varies – see attached 10 year analysis
Annual Debt Service (\$)	\$18,949,152
Amortization Schedule (beginning balance, Interest expense, principal reduction, ending balance)	See attached 10 year analysis
On Commercial Operation, the financing is non-recourse.	

**Progressive Energy Florida
Standard Offer Payment Structure
(\$)**

**Gas Component of Standard Offer ⁽¹⁾
at .007134 MMBtu/kWh**

NYMEX Cost per MMBtu	Basis & LDC Cost ⁽²⁾	Total Cost	Price /kWh	Capacity ⁽³⁾ and O&M	Total Per kWh Paid
7.00	1.35	8.35	0.0596	0.0125	0.0721
8.00	1.35	9.35	0.0667	0.0125	0.0792
9.00	1.35	10.35	0.0738	0.0125	0.0863
10.00	1.35	11.35	0.0810	0.0125	0.0935
11.00	1.35	12.35	0.0881	0.0125	0.1006
12.00	1.35	13.35	0.0952	0.0125	0.1077
13.00	1.35	14.35	0.1024	0.0125	0.1149
14.00	1.35	15.35	0.1095	0.0125	0.1220
15.00	1.35	16.35	0.1166	0.0125	0.1291

(1) Sheet No. 9.415 of SO avoided heat rate 7,134 Btus/kWh

(2) Sheet No. 9.457 of SO

(3) Sheet No 9.415 of SO avoided unit variable O&M \$.00203/kWh plus Sheet No. 9.455 Table 3

Option D \$7.33/kW/M

$40,000 \text{ kW} \times \$7.33 = \$293,200 \times 12 \text{ M} = \$3,518,400/\text{Y} \div 336,000,000 \text{ kWhY} =$

$\$.01047/\text{kWh} + \$.00203 = \$.0125/\text{kWh}$

Worst Case Pricing Scenarios (000)

	Current Market 7/11/08		Crude @ \$100		Crude @ \$90		Crude @ \$80	
	Crude @ \$145		Gas @ \$9.00		Gas @ \$8		Gas @ \$7	
	Gas @ \$12.14							
20 MM G Ethanol @ \$ 3.05	\$ 61,000	@ \$ 2.25	\$ 45,000	@ \$ 2.00	\$ 40,000	@ \$ 1.75	\$ 35,000	
336 MM kWh @ \$ 0.10770	36,187	@ \$ 0.0863	\$ 28,997	@ \$ 0.0792	26,611	@ \$ 0.0721	24,226	
Revenue	<u>\$ 97,187</u>		<u>\$ 73,997</u>		<u>\$ 66,611</u>		<u>\$ 59,226</u>	
Cost of Sales	29,200		29,200		29,200		29,200	
Gross Profit	<u>\$ 67,987</u>		<u>\$ 44,797</u>		<u>\$ 37,411</u>		<u>\$ 30,026</u>	
Interest	10,440		10,440		10,440		10,440	
Depreciation	<u>13,000</u>		<u>13,000</u>		<u>13,000</u>		<u>13,000</u>	
Income Before Taxes	<u>\$ 44,547</u>		<u>\$ 21,357</u>		<u>\$ 13,971</u>		<u>\$ 6,586</u>	
Taxes	9,023		957		-		-	
Net Income	<u>\$ 35,524</u>		<u>\$ 20,400</u>		<u>\$ 13,971</u>		<u>\$ 6,586</u>	
Net Cash Flow	\$ 37,364		\$ 22,240		\$ 15,811		\$ 8,426	

Proforma Income & Cash Flow

(000)

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
20 MM G Ethanol ⁽¹⁾	\$ 50,000	\$ 52,500	\$ 55,125	\$ 57,881	\$ 60,775	\$ 63,814	\$ 67,005	\$ 70,355	\$ 73,873	\$ 76,089
336 MM kWh ⁽²⁾	31,416	32,987	34,636	36,368	38,186	40,096	42,100	44,205	46,416	48,737
Revenue	\$ 81,416	\$ 85,487	\$ 89,761	\$ 94,249	\$ 98,961	\$ 103,910	\$ 109,105	\$ 114,560	\$ 120,289	\$ 124,826
Cost of Sales ⁽³⁾	29,200	30,076	30,978	31,908	32,865	33,851	34,866	35,912	36,990	38,099
Gross Profit	\$ 52,216	\$ 55,411	\$ 58,783	\$ 62,341	\$ 66,096	\$ 70,059	\$ 74,239	\$ 78,648	\$ 83,299	\$ 86,726
Interest	10,440	9,820	8,735	7,960	6,875	5,945	4,705	3,465	2,225	830
Depreciation	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000
Income Before Taxes	\$ 28,776	\$ 32,591	\$ 37,048	\$ 41,381	\$ 46,221	\$ 51,114	\$ 56,534	\$ 62,183	\$ 68,074	\$ 72,896
Taxes	3,232	539	3,763	6,338	7,818	9,301	10,981	13,531	20,119	21,559
Net Income	\$ 25,544	\$ 32,052	\$ 33,285	\$ 35,043	\$ 38,403	\$ 41,813	\$ 45,553	\$ 48,652	\$ 47,955	\$ 51,337
Net Cash Flow	\$ 27,385	\$ 33,272	\$ 33,420	\$ 34,403	\$ 36,678	\$ 39,150	\$ 41,658	\$ 43,467	\$ 41,580	\$ 43,567

(1) \$2.50 per gallon inflated at 5%

(2) Natural gas at \$10.00, kWh at \$.0935 inflated at 5%

(3) 3% inflation

APPENDIX D
TO
PROGRESS ENERGY FLORIDA
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
NEGOTIATED CONTRACT
RATE SCHEDULE COG-2

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

SCHEDULE

COG-2, Firm Capacity and Energy from a Renewable Facility (“RF/QF”) or a Qualifying Facility less than 100 kW (“QF”)

AVAILABLE

PEF will, under the provisions of this schedule and the Contract to which this Appendix is attached and incorporated into by reference, purchase firm capacity and energy offered by a RF/QF as defined in the contract.

APPLICABLE

To RF/QFs as defined in the Contract producing capacity and energy for sale to PEF on a firm basis pursuant to the terms and conditions of this schedule and the Contract. “Firm Capacity and Energy” are described by FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by a RF/QF pursuant to the Contract provisions addressing (among other things) quantity, time and reliability of delivery.

CHARACTER OF SERVICE

Purchases within the territory served by PEF shall be, at the option of PEF, single or three phase, 60-hertz alternating current at any available standard PEF voltage. Purchases from outside the territory served by PEF shall be three phase, 60-hertz alternating current at the voltage level available at the interchange point between PEF and the entry delivering the Firm Capacity and Energy from the RF/QF.

LIMITATION

Purchases under this schedule are subject to FPSC Rules 25-17.080 through 25-17.310, F.A.C., and are limited to those RF/QFs which:

- A. Are defined in the Contract;
- B. Execute a Contract;

RATES FOR PURCHASES BY PEF

Firm Capacity and Energy are purchased at unit cost, in dollars per kilowatt per month and cents per kilowatt-hour, respectively, based on the value of deferring additional capacity required by PEF. For the purpose of this schedule, an Avoided Unit has been designated by PEF. PEF's next Avoided Unit has been identified in Section 4 of the Contract. Schedule 1 to this Appendix describes the methodology used to calculate payment schedules, general terms, and conditions applicable to the Contract filed and approved pursuant to FPSC Rules 25-17.080 through 25-17.310, F.A.C.

A. Firm Capacity Rates

Four options, A through D, as set forth below, are available for payments of firm capacity that is produced by a RF/QF and delivered to PEF. Once selected, an option shall remain in effect for the term of the Contract. Payment schedules for other contract terms will be made available to any RF/QF upon request and may be calculated based on the methodologies described in Schedule 1. The currently approved parameters used to calculate the following schedule of payments are found in Schedule 2 to this Appendix.

Option A - Fixed Value of Deferral Payments - Normal Capacity

Payment schedules under this option are based on the value of a year-by-year deferral of PEF's Avoided Unit with an in-service date as of the Avoided Unit In-Service Date in Section 4 of the Contract, calculated in accordance with FPSC Rule 25-17.0832, F.A.C., as described in Schedule 1. Once this option is selected, the current schedule of payments shall remain fixed and in effect throughout the term of the Contract. The payment schedule for this option follows in Table 3.

Option B - Fixed Value of Deferral Payments - Early Capacity

Payment schedules under this option are based upon the early capital cost component of the value of a year-by-year deferral of the Avoided Unit. The term “early” with respect to Option B means that these payments can start prior to the anticipated in-service date of the Avoided Unit; provided, however, that under no circumstances may payments begin before this RF/QF is delivering Firm Capacity and Energy to PEF pursuant to the terms of the Contract. When this option is selected, the Capacity Payments shall be made monthly commencing no earlier than the Capacity Delivery Date of the RF/QF and calculated as shown on Schedule 1. Capacity Payments under Option B do not result in a prepayment or create a future benefit.

The RF/QF shall select the month and year in which the deliveries of firm capacity and energy to PEF are to commence and Capacity Payments are to start. PEF will provide the RF/QF with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Contract.

Option C - Fixed Value of Deferral Payment - Levelized Capacity

Payment schedules under this option are based upon the levelized capital cost component of the value of a year-by-year deferral of the Avoided Unit. The capital portion of Capacity Payments under this option shall consist of equal monthly payments over the term of the Contract, calculated as shown on Schedule 1. The fixed operation and maintenance portion of Capacity Payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the Avoided Unit. These calculations are shown in Schedule 1. The payment schedule for this option is contained in Table 3. Capacity Payments under Option C do not result in a prepayment or create a future benefit.

Option D - Fixed Value of Deferral Payment - Early Levelized Capacity

Payment schedules under this option are based upon the early levelized capital cost component of the value of a year-by-year deferral of the Avoided Unit. The capital portion of Capacity Payments under this option shall consist of equal monthly payments over the term of the Contract, calculated as shown on Schedule 1. The fixed operation and maintenance expense shall be calculated as shown in Schedule 1.

The RF/QF shall select the month and year in which the deliveries of firm capacity and energy to PEF are to commence and Capacity Payments are to start. PEF will provide the RF/QF with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Contract.

TABLE 3
MONTHLY CAPACITY PAYMENT IN \$kW/MONTH
PEF'S June 1, 2013 Suwannee River Plant 4-on-1 CC
Renewable or Qualifying Facility Negotiated Contract Avoided Capacity Payments

(\$/kW/MONTH)

Contract Year	<u>Option B</u>
	Early Capacity Payment Starting on the Capacity Payment Date
2009	
2010	
2011	
2012	
2013	
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	

B. Energy Rates

The calculation of payments to the RF/QF for energy delivered to PEF shall be the sum, over all hours of the Monthly Billing Period, of the product of (a) [REDACTED]; and (b) the amount of energy (MWh) delivered to PEF from the Facility during that hour.

ESTIMATED AS-AVAILABLE ENERGY COST

For informational purposes only, the estimated incremental avoided energy costs for the next four semi-annual periods are as follows. The following estimates include variable operation and maintenance expenses.

<u>Applicable Period</u>	<u>Average ¢/KWH</u>
April 1, 2008 - September 30, 2008	7.1
October 1, 2008 – March 31, 2009	6.7
April 1, 2009 – September 30, 2009	7.2
October 1, 2009 – March 31, 2010	6.7

ESTIMATED UNIT FUEL COST

The estimated unit fuel costs listed below are associated with the Avoided Unit and are based on current estimates of the price of natural gas.

\$/MMBTU

<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
10.39	10.07	8.89	8.58	8.28	8.29	8.51	8.75	9.01

DELIVERY VOLTAGE ADJUSTMENT

PEF’s average system line losses are analyzed annually for the prior calendar year, and delivery efficiencies are developed for the transmission, distribution primary, and distribution secondary voltage levels. This analysis is provided in the PEF’s semi-annual fuel cost recovery filing with the FPSC in Exhibit Schedule E1. An adjustment factor, calculated as the reciprocal of the appropriate delivery efficiency factor, is applicable to the above determined energy costs if the RF/QF is within PEF’s service territory to reflect the delivery voltage level at which RF/QF energy is received by the PEF.

The current delivery voltage adjustment factors are:

<u>Delivery Voltage</u>	<u>Adjustment Factor</u>
Transmission Voltage Delivery	1.0212
Primary Voltage Delivery	1.0331
Secondary Voltage Delivery	1.0682

PERFORMANCE CRITERIA

Payments for firm Capacity are conditioned on the RF/QF's ability to maintain the following performance criteria:

A. Capacity Delivery Date

The Capacity Delivery Date shall be no later than the Avoided Unit In-Service Date.

B. Availability and Capacity Factor

The Facility's availability and capacity factor are used in the determination of firm Capacity Payments through a performance based calculation as detailed in Appendix A to the Contract.

METERING REQUIREMENTS

The RF/QFs within the territory served by PEF shall be required to purchase from PEF hourly recording meters to measure their energy deliveries to PEF. Energy purchases from the RF/QFs outside the territory of PEF shall be measured as the quantities scheduled for interchange to PEF by the entity delivering Firm Capacity and Energy to PEF.

For the purpose of this Contract, the on-peak hours shall be those hours occurring April 1 through October 31, from 11:00 a.m. to 10:00 p.m., and November 1 through March 31, from 6:00 a.m. to 12:00 noon and 5:00 p.m. to 10:00 p.m. prevailing Eastern time. PEF shall have the right to change such On-Peak Hours by providing the RF/QF a minimum of thirty calendar days' advance written notice.

BILLING OPTIONS

A RF/QF, upon entering into this Contract for the sale of firm capacity and energy or prior to delivery of as-available energy, may elect to make either simultaneous purchases from and sales to PEF, or net sales to PEF; provided, however, that no such arrangement shall cause the RF/QF to sell more than the Facility's net output. A decision on billing methods may only be changed: 1) when a RF/QF selling as-available energy enters into this Contract for the sale of firm capacity and energy; 2) when a Contract expires or is lawfully terminated by either the RF/QF or PEF; 3) when the RF/QF is selling as-available energy and has not changed billing methods within the last twelve months; 4) when the election to change billing methods will not contravene the provisions of FPSC Rule 25-17.0832 or a contract between the RF/QF and PEF.

If a RF/QF elects to change billing methods, such changes shall be subject to the following: 1) upon at least thirty days advance written note to PEF; 2) the installation by PEF of any additional metering equipment reasonably required to effect the change in billing and upon payment by the RF/QF for such metering equipment and its installation; and 3) upon completion and approval by PEF of any alteration(s) to the interconnection reasonably required to effect the change in billing and upon payment by the RF/QF for such alteration(s).

Payments due a RF/QF will be made monthly and normally by the twentieth business day following the end of the billing period. The kilowatt-hours sold by the RF/QF and the applicable avoided energy rates at which payment are being made shall accompany the payment to the RF/QF.

CHARGES TO RENEWABLE ENERGY PROVIDER

The RF/QF shall be responsible for all applicable charges as currently approved or as they may be approved by the Florida Public Service Commission, including, but not limited to:

A. Retail Service Charges

The RF/QF shall be responsible for all FPSC approved charges for any retail service that may be provided by PEF. The RF/QF shall be billed \$74.42 monthly for the costs of meter reading, billing, and other administrative costs.

B. Interconnection Charges

See Section 6.4 for interconnection charges.

TERMS OF SERVICE

- A. It shall be the RF/QF's responsibility to inform PEF of any change in its electric generation capability.
- B. Any electric service delivered by PEF to a RF/QF located in PEF's service area shall be subject to the following terms and conditions:
 - (1) A RF/QF shall be metered separately and billed under the applicable retail rate schedule(s), whose terms and conditions shall pertain.
 - (2) A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.097, F.A.C., and the following:
 - (i) In the first year of operation, the security deposit should be based upon the singular month in which the RF/QF's projected purchases from PEF exceed, by the greatest amount, PEF's estimated purchases from the RF/QF. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit is required upon interconnection.
 - (ii) For each year thereafter, a review of the actual sales and purchases between the RF/QF and PEF will be conducted to determine the actual month of maximum difference. The security deposit should be adjusted to equal twice the greatest amount by which the actual monthly purchases by the RF/QF exceed the actual sales in PEF in that month.
 - (3) PEF shall specify the point of interconnection and voltage level.
 - (4) The RF/QF must enter into an interconnection to PEF's system. Specific features of the RF/QF and its interconnection to PEF's facilities will be considered by PEF in preparing the interconnection agreement.
- C. Service under this rate schedule is subject to the rules and regulations of the FPSC.

**SCHEDULE 1
TO RATE SCHEDULE COG-2**

CALCULATION OF VALUE OF DEFERRAL PAYMENTS

APPLICABILITY

This Schedule 1 provides a detailed description of the methodology used by PEF to calculate the monthly values of deferring or avoiding the Avoided Unit identified in the Contract. When used in conjunction with the current FPSC-approved cost parameters associated with the Avoided Unit contained in Schedule 2, a RF/QF may determine the applicable value of deferral capacity payment rate associated with the timing and operation of its particular facility should the RF/QF enter into a Contract with PEF.

Also contained in this Schedule 1 is the discussion of the types and forms of surety bond requirements or equivalent assurance for payment of the Termination Fee acceptable to PEF in the event of contractual default by a RF/QF.

CALCULATION OF VALUE OF DEFERRAL OPTION A

FPSC Rule 25-17.0832(5) specifies that avoided capacity costs, in dollars per kilowatt per month, associated with capacity sold to a utility by a RF/QF pursuant to Contract shall be defined as the year-by-year value of deferral of the Avoided Unit. The year-by-year value of deferral shall be the difference in revenue requirements associated with deferring the Avoided Unit one year, and shall be calculated as follows:

$$VAC_m = 1/12 [KI_n (1 - R) / (1 - R^L) + O_n]$$

Where, for a one year deferral:

- VAC_m = utility's monthly value of avoided capacity, in dollars per kilowatt per month, for each month of year n;
- K = present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;
- R = $(1 + i_p) / (1 + r)$;
- I_n = total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Avoided Unit with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction for the Avoided Unit which would have been paid had the Avoided Unit been constructed;

- O_n = total fixed operation and maintenance expense for the year n, in mid-year dollars per kilowatt per year, of the Avoided Unit;
- i_p = annual escalation rate associated with the plant cost of the Avoided Unit;
- i_o = annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;
- r = annual discount rate, defined as the utility's incremental after-tax cost of capital;
- L = expected life of the Avoided Unit; and
- n = year for which the Avoided Unit is deferred starting with the Avoided Unit In-Service Date and ending with the Termination Date.

CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS - EARLY CAPACITY-OPTION B

Under the fixed value of deferral Option A, payments for firm capacity shall not commence until the in-service date of the Avoided unit(s). At the option of the RF/QF, however, PEF may begin making payments for capacity consisting of the capital cost component of the value of a year-by-year deferral of the Avoided Unit prior to the anticipated in-service date of the Avoided Unit. When such payments for capacity are elected, the avoided capital cost component of Capacity Payments shall be paid monthly commencing no earlier than the Capacity Delivery Date of the RF/QF, and shall be calculated as follows:

$$A_M = [A_c (1 + i_p)^{(m-1)} + A_o (1 + i_o)^{(m-1)}] / 12 \quad \text{for } m = 1 \text{ to } t$$

Where:

- A_M = monthly payments to be made to the RF/QF for each month of the contract year n, in dollars per kilowatt per month in which RF/QF delivers capacity pursuant to the early capacity option;
- i_p = annual escalation rate associated with the plant cost of the Avoided Unit;
- i_o = annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;

- m = year for which the fixed value of deferral payments under the early capacity option are made to a RF/QF, starting in year one and ending in the year t;
- t = the Term, in years, of the Contract:
- $A_c = F [(1 - R) / (1 - R^t)]$

Where:

- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of Capacity Payments which would have been made had Capacity Payments commenced with the Avoided Unit In-Service Date;
- $R = (1 + i_p) / (1 + r)$
- r = annual discount rate, defined as PEF's incremental after-tax cost of capital; and
- $A_o = G [(1 - R) / (1 - R^t)]$

Where:

- G = The cumulative present value, in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of Capacity Payments which would have been made had Capacity Payments commenced with the Avoided Unit In-Service Date.
- $R = (1 + i_o) / (1 + r)$

The currently approved parameters applicable to the formulas above are found in Schedule 2.

CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS - LEVELIZED AND EARLY LEVELIZED CAPACITY - OPTION C & OPTION D, RESPECTIVELY

Monthly fixed value of deferral payments for levelized and early levelized capacity shall be calculated as follows:

$$P_L = (F / 12) \cdot [r / 1 - (1 + r)^{-t}] + O$$

Where:

- P_L = the monthly levelized capacity payment, starting on or prior to the in-service date of PEF's Avoided Unit(s);
- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of the Capacity Payments which would have been made had the Capacity Payments not been levelized;
- r = the annual discount rate, defined as PEF's incremental after-tax cost of capital;
- t = the Term, in years of the Contract
- O = the monthly fixed operation and maintenance component of the Capacity Payments, calculated in accordance with calculation of the fixed value of deferral payments for the levelized capacity or the early levelized capacity options.

RISK-RELATED GUARANTEES

With the exception of governmental solid waste facilities covered by FPSC Rule 25-17.091, FPSC Rule 25-17.0832 (4)(e)10 requires that, when fixed value of deferral payments - early capacity, levelized capacity, or early levelized capacity are elected, the RF/QF must provide a surety bond or equivalent assurance of securing the payment of a Termination Fee in the event the RF/QF is unable to meet the terms and conditions of its Contract. Depending on the nature of the RF/QF's operation, financial health and solvency, and its ability to meet the terms and conditions of the Contract, one of the following may constitute an equivalent assurance of payment:

- (1) Bond;
- (2) Cash deposit(s) with PEF;
- (3) Unconditional, irrevocable, direct pay Letter of Credit;
- (4) Unsecured promise by a municipal, county or state government to repay payments for early or levelized capacity in the event of default, in conjunction with a legally binding commitment from such government allowing the utility to levy a surcharge on either the electric bills of the government's electricity consuming facilities or the constituent electric customers of such government to assure that payments for early or levelized capacity are repaid;
- (5) Unsecured promise by a privately-owned RF/QF to repay payments for early or levelized capacity in the event of default, in conjunction with a legally binding commitment from the owner(s) of the RF/QF, parent company, and/or subsidiary companies located in Florida to assure that payments for early, levelized or early levelized capacity are repaid; or
- (6) Other guarantees acceptable to PEF.

PEF will cooperate with each RF/QF applying for fixed value of deferral payments under the early, levelized or early levelized capacity options to determine the exact form of an "equivalent assurance" for payment of the Termination Fee to be required based on the particular aspects of the RF/QF. PEF will endeavor to accommodate an equivalent assurance of repayment which is in the best interests of both the RF/QF and PEF's ratepayers.

**SCHEDULE 2
TO RATE SCHEDULE COG-2CAPACITY OPTION PARAMETERS**

**FIXED VALUE OF DEFERRAL PAYMENTS -
NORMAL CAPACITY OPTION PARAMETERS**

Where, for one year deferral:

		<u>Value</u>
VAC_m	= PEF's value of avoided capacity and O&M, in dollars per kilowatt per month, during month m;	\$10.69
K	= present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;	1.462
I_n	= total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Avoided Unit with an in-service date of year n;	\$1,307.68
O_n	= total fixed operation and maintenance expense, for the year n, in mid-year dollars per kilowatt per year, of the Avoided Unit;	\$7.14
i_p	= annual escalation rate associated with the plant cost of the Avoided Unit;	4.00%
i_o	= annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;	2.25%
r	= annual discount rate, defined as PEF's incremental after-tax cost of capital;	8.48%
L	= expected life of the Avoided Unit;	25
n	= year for which the Avoided Unit is deferred starting with the Avoided Unit In-Service Date and ending with the Termination Date.	2013

**FIXED VALUE OF DEFERRAL PAYMENTS -
EARLY CAPACITY OPTION PARAMETERS**

A_m	=	monthly avoided capital cost component of Capacity Payments to be made to the RF/QF starting as early as five years prior to the Avoided Unit In-Service Date, in dollars per kilowatt per month;	\$5.97
i_p	=	annual escalation rate associated with the plant cost of the Avoided Unit;	4.00%
n	=	year for which early Capacity Payments to a RF/QF are to begin;	2009
F	=	the cumulative present value of the avoided capital cost component of Capacity Payments which would have been made had Capacity Payments commenced with the anticipated in-service date of the Avoided Unit and continued for a period of 10 years;	\$672.20
r	=	annual discount rate, defined as PEF's incremental after-tax cost of capital;	8.48%
t	=	the Term, in years, of the Contract for the purchase of firm capacity commencing prior to the in-service date of the Avoided Unit;	14
G	=	the cumulative present value of the avoided fixed operation and maintenance expense component of Capacity Payments which would have been made had Capacity Payments commenced with the anticipated in-service date of the Avoided Unit and continued until the Termination Date.	\$36.95

APPENDIX E
FPSC RULES 25-17.080 THROUGH 25-17.310

EXHIBIT B

**THE AMENDED VISION CONTRACT
(RED-LINE VERSION)**

REDACTED

AMENDED NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY
AND ENERGY FROM A RENEWABLE ENERGY PRODUCER

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| AMENDED NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY
AND ENERGY FROM A RENEWABLE ENERGY PRODUCER

between

Vision / FL I LLC

and

PROGRESS ENERGY FLORIDA

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AMENDED NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A RENEWABLE ENERGY PRODUCER OR QUALIFYING FACILITY LESS THAN 100 KW

THIS NEGOTIATED CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY (hereinafter referred to as the “Contract”), as amended and signed as provided on the signature page below, and deemed made and entered as of the date this Contract is approved by the Florida Public Service Commission (hereinafter referred to as the “Execution Date”), by and between Vision / FL I LLC (hereinafter the Renewable Energy Provider/Qualifying Facility (“RF/QF”), and Florida Power Corporation d/b/a Progress Energy Florida (hereinafter “PEF”), a private utility corporation organized and existing under the laws of the State of Florida. The RF/QF and PEF shall be individually be identified herein as the “Party” and collectively as the “Parties”. This Contract contains ~~five~~four Appendices which are incorporated into and made part of this Contract: Appendix A: Monthly Capacity Payment Calculation; Appendix B: Termination Fee; Appendix C: Detailed Project Information; Appendix D: Rate Schedule COG-2; Appendix E: ~~Agreed Upon Payment Schedules;~~ and ~~Appendix F: Florida Public Service Commission (“FPSC”) Rules 25-17.080 through 25-17.310, F.A.C.~~

WITNESSETH:

WHEREAS, the RF/QF desires to sell, and PEF desires to purchase electricity to be generated by the RF/QF consistent with Florida Statutes 366.91 (2006) and FPSC Rules 25-17.080 through 25-17.310 F.A.C.; and

WHEREAS, the RF/QF has acquired an interconnection/transmission service agreement with the utility in whose service territory the Facility is to be located, pursuant to which the RF/QF assumes contractual responsibility to make any and all transmission-related arrangements (including ancillary services) between the RF/QF and the Transmission Provider for delivery of the Facility's firm capacity and energy to PEF. The Parties recognize that the Transmission Provider may be PEF and that the transmission service will be provided under a separate agreement; and

WHEREAS, the FPSC has approved this Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer; and

WHEREAS, the RF/QF guarantees that the Facility is capable of delivering firm capacity and energy to PEF for the term of this Contract in a manner consistent with the provision of this Contract;

NOW, THEREFORE, for mutual consideration the Parties agree as follows:

1. Definitions

“AFR” means the Facility’s annual fuel requirement.

“AFTR” means the Facility’s annual fuel transportation requirement

“Annual Capacity Billing Factor” or “ACBF” means 12 month rolling average of the Monthly Availability Factor as further defined and explained in Appendix A.

“Appendices” shall mean the schedules, exhibits, and attachments which are appended hereto and are hereby incorporated by reference and made a part of this Contract. Such Appendices include:

“Appendix A” sets forth the Monthly Capacity Payment Calculation.

“Appendix B” sets forth the Termination Fee.

“Appendix C” sets forth the Detailed Project Information.

“Appendix D” sets forth Rate Schedule COG-2.

“Appendix E”

~~sets forth the Agreed Upon Payment Schedules and Other Mutual Agreements~~

“Appendix F” sets forth Florida Public Service Commission (“FPSC”) Rules 25-17.080 through 25-17.310, F.A.C.

“As-Available Energy Rate” means the rate calculated by PEF in accordance with FPSC Rule 25-17.0825, F.A.C., and PEF’s Rate Schedule COG-1, as they may each be amended from time to time

“Authorization to Construct” means authorization issued by any appropriate Government Agency to construct or reconstruct the Facility granted to RF/QF in accordance with the laws of the State of Florida and any relevant federal law.

“Avoided Unit” means the electrical generating unit described in Section 4 upon which this Contract is based.

“Avoided Unit Energy Cost” has the meaning assigned to it in Appendix D.

“Avoided Unit Fuel Cost” has the meaning assigned to it in Appendix D.

“Avoided Unit Heat Rate” means the average annual heat rate of the Avoided Unit as defined in Section 4.

“Avoided Unit In-Service Date” means the date upon which the Avoided Unit would have started commercial operation as specified in Section 4.

“Avoided Unit Life” means the economic life of the Avoided Unit.

“Avoided Unit Variable O&M” means the Avoided Unit variable operation and maintenance expenses as defined in Section 4. This rate will escalate annually based upon CPI-U. The annual escalation will begin in the payment for January deliveries.

“Base Capacity Payment” or “BCP” means capacity payment rates defined in Appendix D and further defined by the selection of Option A,B,C or D in Section 9.2.

“Base Performance Security Amount” means the dollar amount per MW listed in the Table 2 in Section 11 for years 1-5 associated with the applicable credit class of the Party.

“Base Year” means the year that this Contract was approved by the FPSC.

“Business Day” means any day except a day upon which banks licensed to operate in the State of Florida are authorized, directed or permitted to close, Saturday, Sunday or a weekday that is observed as a public holiday in the State of Florida.

“CAMD” means the Clean Air Markets Division of the Environmental Protection Agency or successor administrator (collectively with any local, state, regional, or federal entity given jurisdiction over a program involving transferability of Environmental Attributes).

“Capacity” means the minimum average hourly net capacity (generator output minus auxiliary load) measured over the Committed Capacity Test Period.

“Capacity Delivery Date” means the first calendar day immediately following the date of the Facility's successful completion of the first Committed Capacity Test.

“Capacity Payment” means the payment defined in Section 9.2 and Appendix A.

“Committed Capacity” or “CC” means the capacity in MW that the RF/QF commits to sell to PEF, the amount of which shall be determined in accordance with Section 7 and Appendix D.

“Committed Capacity Test” means the testing of the capacity of the Facility performed in accordance with the procedures set forth in Section 8.

“Committed Capacity Test Period” means a test period of twenty-four (24) consecutive hours.

“Completed Permits Date” means the date by which the RF/QF must complete licensing, certification, and all federal, state and local governmental, environmental, and licensing approvals required to initiate construction of the Facility. This date is specified in Section 4.

“Completion/Performance Security” means the security described in Section 11.

“Conditions Precedent” shall have the meaning assigned to it in Section 5.

“Contract” means this Negotiated contract for the purchase of Firm Capacity and Energy from a Renewable Energy Producer or Qualifying Facility with a nameplate capacity of less than 100 kW.

“CPI-U” means the revised monthly consumer price index for All Urban Consumers, U.S. City Average (CPI-U) (All Items 1982-84 = 100) promulgated by the Bureau of Labor Statistics of the United States Department of Labor.

“Creditworthy” with respect to a Party or its credit support provider, as applicable, means a party is rated by at least two (2) of the three (3) following rating agencies Standard & Poor’s (S&P), Moody’s Investor Services (Moody’s) and Fitch Rating Services (Fitch). Rating shall be the unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement). Both ratings (if company is only rated by 2 of the 3 agencies) or at least two (2) of the three (3) (if company is rated by all three agencies) must be (i) BBB- or greater from S&P (ii) Baa3 or greater from Moody’s (iii) BBB- or greater from Fitch.

“Demonstration Period” means a sixty-hour period in which the Committed Capacity Test must be completed.

“Distribution System” means the distribution system consisting of electric lines, electric plant, transformers and switchgear used for conveying electricity to ultimate consumers, but not including any part of the Transmission System.

“Dispute” shall have the meaning assigned to it in Section 20.9.

“Drop Dead Date” means the date which is twelve (12) months following the Execution Date.

“Eastern Prevailing Time” or “EPT” means the time in effect in the Eastern Time Zone of the United States of America, whether Eastern Standard Time or Eastern Daylight Savings Time.

“Effective Date” has the meaning assigned to it in Section 5.

“Electrical Interconnection Point” means the physical point at which the Facility is connected with the Transmission System or, if RF/QF interconnects with a Transmission System other than PEF’s, PEF’s interconnection with the Transmission Provider’s Transmission System, or such other physical point on which RF/QF and PEF may agree.

“Eligible Collateral” means (i) a Letter of Credit from a Qualified Institution or (ii) cash deposited into a PEF Security Account by RF/QF or RF/QF Security Account by PEF, as the case may be, or (iii) RF/QF Guarantee or PEF Guarantee or a combination of (i), (ii) and/or (iii) as outlined in Section 11.

“Energy” means megawatt-hours generated by the Facility of the character commonly known as three-phase, sixty hertz electric energy that is delivered at a nominal voltage at the Electrical Interconnection Point.

“Environmental Attributes” means all attributes of an environmental or other nature that are created or otherwise arise from the Facility’s generation of electricity from a renewable energy source in contrast with the generation of electricity using nuclear or fossil fuels or other traditional resources. Forms of such attributes include, without limitation, any and all environmental air quality credits, green credits, renewable energy credits (“RECs”), carbon credits, emissions reduction credits, certificates, tags, offsets, allowances, or similar products or rights, howsoever entitled, (i) resulting from the avoidance of the emission of any gas, chemical, or other substance, including but not limited to, mercury, nitrogen oxide, sulfur dioxide, carbon dioxide, carbon monoxide, particulate matter or similar pollutants or contaminants of air, water or soil gas, chemical, or other substance, and (ii) attributable to the generation, purchase, sale or use of Energy from or by the Facility, or otherwise attributable to the Facility during the Term. Environmental Attributes include, without limitation, those currently existing or arising during the Term under local, state, regional, federal, or international legislation or regulation relevant to the avoidance of any emission described in this Contract under any governmental, regulatory or voluntary program, including, but not limited to, the United Nations Framework Convention on Climate Change and related Kyoto Protocol or other programs, laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency (“CAMD”) or successor administrator (collectively with any local, state, regional, or federal entity given jurisdiction over a program involving transferability of Environmental Attributes.).

“Event of Default” has the meaning assigned to it in Section 14.

“Execution Date” has the meaning assigned to it in the opening paragraph of this Contract.

“Exemplary Early Capacity Payment Date” means the exemplary date used to calculate Capacity Payments for Option B and D. This date is specified in Section 4. The actual Capacity Payments for Option B and D will be calculated based upon the Capacity Delivery Date.

“Expiration Date” means the final date upon which this Contract can be executed. This date is specified in Section 4.

“Facility” means all equipment, as described in this Contract, used to produce electric energy and, and all equipment that is owned or controlled by the RF/QF required for parallel operation with the Transmission System. In the case of a cogenerator the Facility includes all equipment that is owned or controlled by the RF/QF to produce useful thermal energy through the sequential use of energy.

“Financial Closing” means the fulfillment of each of the following conditions:

- (a) the execution and delivery of the Financing Documents; and
- (b) all Conditions Precedent to the initial availability for disbursement of funds under the Financing Documents (other than relating to the effectiveness of this Contract) are satisfied or waived.

“Financing Documents” shall mean documentation with respect to any private equity investment in RF/QF, any loan agreements (including agreements for any subordinated debt), notes, bonds, indentures, guarantees, security agreements and hedging agreements relating to the financing or refinancing of the design, development, construction, Testing, Commissioning, operation and maintenance of the Facility or any guarantee by any Financing Party of the repayment of all or any portion of such financing or refinancing.

“Financing Party” means the Persons (including any trustee or agent on behalf of such Persons) providing financing or refinancing to or on behalf of RF/QF for the design, development, construction, testing, commissioning, operation and maintenance of the Facility (whether limited recourse, or with or without recourse).

“Firm Capacity and Energy” has the meaning assigned to it in Appendix D.

“Firm Capacity Rate” has the meaning assigned to it in Appendix D.

“Firm Energy Rate” has the meaning assigned to it in Appendix D.

“Force Majeure” has the meaning given to it in Section 18.

“FPSC” means the Florida Public Service Commission or its successor.

“Government Agency” means the United States of America, or any state or any other political subdivision thereof, including without limitation, any municipality, township or county, and any domestic entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including, without limitation, any corporation or other entity owned or controlled by any of the foregoing.

“Governmental Approval” means any authorization, consent, approval, license, ruling, permit, exemption, variance, order, judgment, instruction, condition, direction, directive, decree, declaration of or regulation by any Government Agency relating to the construction, development, ownership, occupation, start-up, Testing, operation or maintenance of the Facility or to the execution, delivery or performance of this Contract as any of the foregoing are in effect as of the date of this Contract.

“Gross Domestic Price Implicit Price Deflator” or “GDPIPD” has the meaning assigned to it in Section 11.

“IEEE” means the Institute of Electrical and Electronics Engineers, Inc.

“Indemnified Party” has the meaning assigned to it in Section 16.

“Indemnifying Party” has the meaning assigned to it in Section 16.

“Initial Reduction Value” has the meaning assigned to it in Appendix B.

“Insurance Services Office” has the meaning assigned to it in Section 17.

“KVA” means one or more kilovolts-amperes of electricity, as the context requires.

“kW” means one or more kilowatts of electricity, as the context requires.

“kWh” means one or more kilowatt-hours of electricity, as the context requires.

“Letter of Credit” means a stand-by letter of credit from a Qualified Institution that is acceptable to PEF whose approval may not be unreasonably withheld.

“LOI” means a letter of intent for fuel supply.

“Material Adverse Change” means as to PEF, that PEF or PEF Guarantor, if applicable, or, as to RF/QF, that RF/QF or RF/QF Guarantor, if applicable, any of the following events; (a) such party is no longer Creditworthy or (b) the party of Party’s guarantor, if applicable, defaults on an aggregate of fifty million dollars (\$50,000,000) or five percent (5%) of equity, whichever is less.

“MCPC” means the Monthly Capacity Payment for Option A.

“Monthly Billing Period” means the period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m., on the Capacity Delivery Date and ending with the last calendar day of such month.

“Monthly Availability Factor” or “MAF” means the total energy received during the Monthly Billing Period for which the calculation is made, divided by the product of Committed Capacity times the total hours during the Monthly Billing Period.

“Monthly Capacity Payment” or “MCP” means the payment for Capacity calculated in accordance with Appendix A.

“MW” means one or more megawatts of electricity, as the context requires.

“MWh” means one or more megawatt-hours of electricity, as the context requires.

“Option A” means normal Capacity Payments as described in Appendix D.

“Option B” means early Capacity Payments as described in Appendix D.

“Option C” means levelized Capacity Payments as described in Appendix D.

“Option D” means early levelized Capacity Payments as described in Appendix D.

“Party” or “Parties” has the meaning assigned to it in the opening paragraph of this Contract.

“PEF” has the meaning assigned to it in the opening paragraph of this Contract.

“PEF Entities” has the meaning assigned to it in Section 16.

“PEF Guarantee” means a guarantee provided by PEF Guarantor that is acceptable to RF/QF whose approval may not be unreasonably withheld.

“PEF Guarantor” means a party that, at the time of execution and delivery of its PEF Guarantee is a direct or indirect owner of PEF and is (a) Creditworthy or is (b) reasonably acceptable to RF/QF as having verifiable Creditworthiness and a net worth sufficient to secure PEF’s obligations.

“PEF Security Account” means an account designated by PEF for the benefit of PEF free and clear of all liens (including liens of any lenders) to be established and maintained at a Qualified Institution pursuant to a control agreement in a form and substance acceptable to PEF whose cost is to be borne by the RF/QF.

“Person” means any individual, partnership, corporation, association, joint stock company trust, joint venture, unincorporated organization, or Governmental Agency (or any department, agency, or political subdivision thereof).

“Project Consents” mean the following Consents, each of which is necessary to RF/QF for the fulfillment of RF/QF’s obligations hereunder:

- (a) the Authorization to Construct;
- (b) planning permission and consents in respect of the Facility, and any electricity substation located at the Facility site, including but not limited to, a prevention of significant deterioration permit, a noise, proximity and visual impact permit, and any required zoning permit; and
- (c) any integrated pollution control license.

“Project Contracts” means this Contract, and any other contract required to construct, operate and maintain the Facility. The Project Contracts may include, but are not limited to, the turnkey engineering, procurement and construction contract, the electrical interconnection and operating agreement, the fuel supply agreement, the facility site lease, and the operation and maintenance agreement.

“Prudent Utility Practices” means any of the practices, methods, standards and acts (including, but not limited to, the practices, methods and acts engaged in or approved by a significant portion of owners and operators of power plants of technology, complexity and size similar to the Facility in the United States) that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, could have been expected to accomplish the desired result and goals (including such goals as efficiency, reliability, economy and profitability) in a manner consistent with applicable facility design limits and equipment specifications and applicable laws and regulations. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of acceptable practices, methods or acts in each case taking into account the Facility as an independent power project.

“Qualifying Facility” or “QF” means a cogenerator, small power producer, or non-utility generator that has been certified or self-certified by the FERC as meeting certain ownership, operating and efficiency criteria established by the Federal Energy Regulatory Commission pursuant to the Public Utility Regulatory Policies Act of 1978 (“PURPA”), the criteria for which are currently set forth in 18 C.F.R. § 292, *et seq.* (2006), Section 210 of PURPA, 16 U.S.C. § 824a-3 (2005), 16 U.S.C. 796 *et seq.* (2006), and Section 1253 of EPAAct 2005, Pub. L. No. 109-58, § 1253, 119 Stat. 594 (2005) or, alternatively, analogous provisions under the laws of the State of Florida.

“Qualified Institution” means the domestic office of a United States commercial bank or trust company or a foreign bank with a United States branch with total assets of at least ten billion dollars (\$10,000,000,000) (which is not an affiliate of either party) having a general long-term senior unsecured debt rating of A- or higher (as rated by Standard & Poor’s Ratings Group), A3 or higher (as rated by Moody’s Investor Services) or A- or higher (as rated by Fitch Ratings).

“Rate Schedule COG-1” means PEF’s Agreement for Purchase of As-Available Energy and/or Parallel Operation with a Qualifying Facility as approved by the FPSC and as may be amended from time to time.

“REC” means renewable energy credits, green tags, green tickets, renewable certificates, tradable renewable energy credits (“T-REC”) or any tradable certificate that is produced by a renewable generator in addition to and in proportion to the production of electrical energy.

“Reduction Value” has the meaning assigned to it in Appendix B.

“Renewable Facility” or “RF/QF” means an electrical generating unit or group of units at a single site, interconnected for synchronous operation and delivery of electricity to an electric utility, where the primary energy in British Thermal Units used for the production of electricity is from one or more of the following sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power or waste heat from a commercial or industrial manufacturing process.

“RF/QF Entities” has the meaning assigned to it in Section 16.

“RF/QF Guarantee” means a guarantee provided by RF/QF Guarantor that is acceptable to PEF whose approval may not be unreasonably withheld.

“RF/QF Guarantor” means a party that, at the time of execution and delivery of its RF/QF Guarantee is a direct or indirect owner of RF/QF and is (a) Creditworthy or is (b) reasonably acceptable to PEF as having verifiable Creditworthiness and a net worth sufficient to secure RF/QF’s obligations.

“RF/QF Insurance” has the meaning assigned to it in Section 17.

“RF/QF Performance Security” has the meaning assigned in Section 11.

“RF/QF Security Account” means an account designated by the RF/QF for the benefit of the RF/QF free and clear of all liens (including liens of any lenders) to be established and maintained at a Qualified Institution pursuant to a control agreement in a form and substance acceptable to RF/QF whose cost is to be borne by PEF.

“Security Documentation” has the meaning assigned to it in Section 12.

“Supplemental Eligible Collateral” means additional collateral in the form of Letter of Credit or cash to augment the RF/QF Performance Security in the event of a Material Adverse Change.

“Term” has the meaning assigned to it in Section 3.

“Termination Date” means the date upon which this Contract terminates unless terminated earlier in accordance with the provisions hereof. This date is specified in Section 4.

“Termination Fee” means the fee described in Appendix B as it applies to any Capacity Payments made under Option B, C or D.

“Termination Security” has the meaning assigned to it in Section 12.

“Transmission Provider” means the operator(s) of the Transmission System(s) or any successor thereof or any other entity or entities authorized to transmit Energy on behalf of RF/QF from the Electrical Interconnection Point.

“Transmission System” means the system of electric lines comprised wholly or substantially of high voltage lines, associated system protection, system stabilization, voltage transformation, and capacitance, reactance and other electric plant used for conveying electricity from a generating station to a substation, from one generating station to another, from one substation to another, or to or from any Electrical Interconnection Point or to ultimate consumers and shall include any interconnection owned by the Transmission Provider or PEF, but shall in no event include any lines which the Transmission Provider has specified to be part of the Distribution System except for any distribution facilities required to accept capacity and energy from the Facility.

2. Facility; Renewable Facility or Qualifying Facility Status

The Facility's location and generation capabilities are as described in Table 1 below.

TABLE 1

TECHNOLOGY AND GENERATOR CAPABILITIES	
Location: Specific legal description (e.g., metes and bounds or other legal description with street address required)	City: County: Osceola
Generator Type (Induction or Synchronous)	Synchronous
Technology	Steam Turbine
Fuel Type and Source	Closed Loop Sweet Sorghum Bagasse
Generator Rating (KVA)	62,500
Maximum Capability (kW)	50,000
Net Output (kW)	To PEF 40,000
Power Factor (%)	92-95
Operating Voltage (kV)	13.8
Peak Internal Load kW	9,500

The RF/QF's failure to complete Table 1 in its entirety shall render this Contract null and void and of no further effect.

The RF/QF shall use the same fuel or energy source and maintain the status as a Renewable Facility or a Qualifying Facility throughout the term of this Contract. RF/QF shall at all times keep PEF informed of any material changes in its business which affects its Renewable Facility or Qualifying Facility status. PEF and RF/QF shall have the right, upon reasonable notice of not less than seven (7) Business Days, to inspect the Facility and to examine any books, records, or other documents reasonably deemed necessary to verify compliance with this Contract. In the event of an emergency at or in proximity to the RF/QF site that impacts PEF's system, PEF shall make reasonable efforts to contact the Facility and make arrangements for an emergency inspection. On or before March 31 of each year during the term of this Contract, the RF/QF shall provide to PEF a certificate signed by an officer of the RF/QF certifying that the RF/QF continuously maintained its status as a Renewable Facility or a Qualifying Facility during the prior calendar year.

3. Term of Contract

Except as otherwise provided herein, this Contract shall become effective immediately upon the Execution Date and shall end at 12:01 a.m. on the Termination Date, (the “Term”) unless terminated earlier in accordance with the provisions hereof. Notwithstanding the foregoing, if the Capacity Delivery Date of the Facility is not accomplished by the RF/QF before the Avoided Unit In-Service Date (or such later date as may be permitted by PEF pursuant to Section 7), this Contract shall be rendered null and void and PEF's shall have no obligations under this Contract.

4. Minimum Specifications and Milestones

As required by FPSC Rule 25-17.0832(4)(e), the minimum specifications pertaining to this Contract and milestone dates are as follows:

Avoided Unit	Suwannee River Plant 4-on-1 CC
Avoided Unit Capacity	1,161 MW
Avoided Unit In-Service Date	June 1, 2013
Avoided Unit Heat Rate	7,134 BTU/kWh
Avoided Unit Variable O&M	0.203¢ per kWh in mid-2013 dollars escalating annually at 2.25%
Avoided Unit Life	25 years
Capacity Payments begin	Avoided Unit In-Service Date unless Option B, or D is selected January 1, 2011
Termination Date	25 years after the Capacity Delivery Date
Minimum Performance Standards – On Peak Availability Factor*	89%
Minimum Performance Standards – Off Peak Availability Factor	89%
Minimum Availability Factor Required to qualify for a Capacity payment	69%
Expiration Date	April 1, 2009
Completed Permits Date	June 1, 2012
Exemplary Early Capacity Payment Date	January 1, 2010

* RF/QF performance shall be as measured and/or described in Appendix A.

5. Conditions Precedent

- (a) Unless otherwise waived in writing by PEF, on or before the Drop Dead Date, RF/QF shall satisfy the following Conditions Precedent:
- (i) RF/QF shall have obtained firm transmission service necessary to deliver Capacity and energy from the Facility to the Electrical Interconnection Point, in a form and substance satisfactory to RF/QF in its sole discretion;
 - (ii) RF/QF shall have obtained the Project Consents and any other Consents for which it is responsible under the terms hereof in a form and substance satisfactory to RF/QF in its sole discretion;
 - (iii) RF/QF shall have entered into Financing Documents relative to the construction of the Facility and have achieved Financial Closing in a form and substance satisfactory to RF/QF in its sole discretion;
 - (iv) RF/QF shall have entered into the Project Contracts in a form and substance satisfactory to RF/QF in its sole discretion;
 - (v) RF/QF shall have obtained insurance policies or coverage in compliance with Section 17;
 - (vi) RF/QF shall have delivered to PEF (i) a copy of its constitutional documents (certified by its corporate secretary as true, complete and up-to-date) and (ii) a copy of a corporate resolution approving the terms of this Contract and the transactions contemplated hereby and authorizing one or more individuals to execute this Contract on its behalf (such copy to have been certified by its corporate representative as true, complete and up-to-date);
 - (vii) in the event the RF/QF is a Qualifying Facility, RF/QF obtaining Qualifying Facility status from either the FPSC or FERC.
- (b) Promptly upon satisfaction (or waiver by PEF in writing) of the Conditions Precedent to be satisfied by RF/QF, PEF shall deliver to RF/QF a certificate evidencing such satisfaction. Subject to there being no Event of Default which has occurred and/or is continuing as of the date upon which the last of such certificates is delivered, the date of such last certificate shall constitute the effective date of this Contract (the "Effective Date").
- (c) Unless all Conditions Precedent are satisfied by RF/QF on or before the Drop Dead Date or such Conditions Precedent are waived in writing by PEF, this Contract shall terminate on such date and neither Party shall have any further liability to the other Party hereunder.
- (d) RF/QF shall achieve the Capacity Delivery Date on or before the Avoided Unit In-Service Date.

- (e) RF/QF shall ensure that before the initial Committed Capacity Test:
 - (a) the Facility shall have been constructed so that the Committed Capacity Test may be duly and properly undertaken in accordance with Section 7; and
 - (b) an operable physical connection from the Facility to the Transmission System shall have been effected in accordance with the electrical interconnection and operating agreement required by the Transmission Provider, provided, however, that such physical connection shall be made consistent with the terms hereof.

6. Sale of Electricity by the RF/QF

6.1 Consistent with the terms hereof, the RF/QF shall sell to PEF and PEF shall purchase from the RF/QF electric power generated by the Facility. The purchase and sale of electricity pursuant to this Contract shall be a () net billing arrangement or () simultaneous purchase and sale arrangement; provided, however, that no such arrangement shall cause the RF/QF to sell more than the Facility's net output. The billing methodology may be changed at the option of the RF/QF, subject to the provisions of Appendix D.

6.2 Ownership and Offering For Sale Of Renewable Energy Attributes

The RF/QF shall retain any and all rights to own and to sell any and all Environmental Attributes associated with the electric generation of the Facility, provided that: (i) PEF shall have a right of first refusal with respect to any and all bona fide offers to purchase any Environmental Attributes; and (ii) the RF/QF shall not sell Environmental Attributes to any party at a price less than that charged by PEF. PEF must respond to an offer by a bona fide offer within thirty (30) days of notification by the RF/QF.

6.3 The RF/QF shall not rely on interruptible standby service for the start up requirements (initial or otherwise) of the Facility.

6.4 The RF/QF shall be responsible for the scheduling of required transmission and for all costs, expenses, taxes, fees and charges associated with the delivery of energy to PEF. The RF/QF shall enter into a transmission service agreement with the Transmission Provider in whose service territory the Facility is to be located and the RF/QF shall make any and all transmission-related arrangements (including ancillary services) between the RF/QF and the Transmission Provider for delivery of the Facility's firm Capacity and energy to PEF. The Capacity and energy amounts paid to the RF/QF hereunder do not include transmission losses. The RF/QF shall be responsible for transmission losses that occur prior to the point at which the RF/QF's energy is delivered to PEF. The Parties recognize that the Transmission Provider may be PEF and that if PEF is the Transmission Provider, that the transmission service will be provided under a separate agreement.

7. Committed Capacity/Capacity Delivery Date

- 7.1** In the event that the RF/QF elects to make no commitment as to the quantity or timing of its deliveries to PEF, then its Committed Capacity as defined in the following Section 7.2 shall be zero (0) MW. If the Committed Capacity is zero (0) MW, Sections 7.2 through Section 7.7 and all of Section 8 shall not apply.
- 7.2** If the RF/QF commits to sell capacity to PEF, the amount of which shall be determined in accordance with this Section 7 and Appendix D. Subject to Section 7.4, the Committed Capacity is set at 40,000 kW, with an expected Capacity Delivery Date on or before the Avoided Unit In-Service Date.
- 7.3** Capacity testing of the Facility (each such test a Committed Capacity Test) shall be performed in accordance with the procedures set forth in Section 8. The Demonstration Period for the first Committed Capacity Test shall commence no earlier than ninety (90) days before the expected Capacity Delivery Date and testing must be completed before the Avoided Unit In-Service Date. The first Committed Capacity Test shall not be successfully completed unless the Facility demonstrates a Capacity of at least one hundred percent (100%) of the Committed Capacity set forth in Section 7.2. Subject to Section 8.1, the RF/QF may schedule and perform up to three (3) Committed Capacity Tests to satisfy the requirements of the Contract with respect to the first Committed Capacity Test.
- 7.4** In addition to the first Committed Capacity Test, PEF shall have the right to require the RF/QF, after notice of no less than ten (10) Business Days prior to such proposed event, to validate the Committed Capacity by means of a Committed Capacity Test at any time, up to two (2) times per year, the results of which shall be provided to PEF within seven (7) calendar days of the conclusion of such test. On and after the date of such requested Committed Capacity Test, and until the completion of a subsequent Committed Capacity Test, the Committed Capacity shall be set at the lower of the Capacity tested or the Committed Capacity as set forth in Section 7.2.

- 7.5 Notwithstanding anything contrary to the terms hereof, the Committed Capacity may not exceed the amount set forth in Section 7.2 without the consent of PEF, which consent shall be granted in PEF's sole discretion.
- 7.6 In no event shall PEF make Capacity Payments to the RF/QF prior to the Capacity Delivery Date.
- 7.7 The RF/QF shall be entitled to receive Capacity Payments beginning on the Capacity Delivery Date, provided the Capacity Delivery Date occurs before the Avoided Unit In-Service Date (or such later date permitted by PEF). If the Capacity Delivery Date does not occur before the Avoided Unit In-Service Date, PEF shall immediately be entitled to draw down the Completion/Performance Security in full.

8. Testing Procedures

- 8.1 The Committed Capacity Test must be completed successfully within the Demonstration Period, which period, including the approximate start time of the Committed Capacity Test, shall be selected and scheduled by the RF/QF by means of a written notice to PEF delivered at least thirty (30) calendar days prior to the start of such period. The provisions of the foregoing sentence shall not apply to any Committed Capacity Test ordered by PEF under any of the provisions of this Contract. PEF shall have the right to be present onsite to monitor firsthand any Committed Capacity Test required or permitted under this Contract.
- 8.2 The Committed Capacity Test results shall be based on a test period of twenty-four (24) consecutive hours (the "Committed Capacity Test Period") at the highest sustained net kW rating at which the Facility can operate without exceeding the design operating conditions, temperature, pressures, and other parameters defined by the applicable manufacturer(s) for steady state operations at the Facility. The Committed Capacity Test Period shall commence at the time designated by the RF/QF pursuant to Section 8.1 or at such time requested by PEF pursuant to Section 7.4; provided, however, that the Committed Capacity Test Period may commence earlier than such time in the event that PEF is notified of, and consents to, such earlier time.
- 8.3 Normal station service use of unit auxiliaries, including, without limitation, cooling towers, heat exchangers, and other equipment required by law, shall be in service during the Committed Capacity Test Period.
- 8.4 The Capacity of the Facility shall be the minimum average hourly net output in kW (generator output minus auxiliary) measured over the Committed Capacity Test Period.

- 8.5 The Committed Capacity Test shall be performed according to standard industry testing procedures for the appropriate technology of the RF/QF.
- 8.6 The results of any Committed Capacity Test, including all data related to Facility operation and performance during testing, shall be submitted to PEF by the RF/QF within seven (7) calendar days of the conclusion of the Committed Capacity Test. The RF/QF shall certify that all such data is accurate and complete.

9. Payment for Electricity Produced by the Facility

9.1 Energy

9.1.1 PEF agrees to pay the RF/QF for energy produced by the Facility and delivered to PEF in accordance with the rates and procedures contained in PEF's approved Rate Schedule COG-1 if the Committed Capacity pursuant to Section 7.2 is set to zero. If the Committed Capacity is greater than zero MW, then PEF agrees to pay the RF/QF for energy produced by the Facility and delivered to PEF in accordance with the rates and procedures contained in Appendix D, as it may be amended from time to time to take into account changes to retail service charges, interconnection-related charges and applicable FPSC rule changes. The Parties agree that this Contract shall be subject to all of the provisions contained in Rate Schedule COG-1 or Appendix D whichever applies as approved and on file with the FPSC.

9.1.2 PEF may, at its option, limit deliveries under this Contract to 110% of the Committed Capacity as set forth in Section 7. In the event that PEF chooses to limit deliveries, any energy in excess of 110% of the Committed Capacity will be paid for at the rates defined in Rate Schedule COG-1 and shall not be included in the calculations in Appendix A hereto.

9.2 Capacity

PEF agrees to pay the RF/QF for the Capacity described in Section 7 in accordance with the rates and procedures contained in Appendix D, as it may be amended and approved from time to time by the FPSC to take into account changes to retail service charges, interconnection-related charges and applicable FPSC rule changes, and pursuant to the election of Option B of Appendix D. The RF/QF understands and agrees that Capacity Payments will only be made if the Capacity Delivery Date occurs before the Avoided Unit In-Service Date and the Facility is delivering firm Capacity and Energy to PEF. Once so selected, this Option, the Firm Capacity Rate and/or the Firm Energy Rate cannot be changed for the term of this Contract.

9.3 Payments for Energy and Capacity

9.3.1 Payments due the RF/QF will be made monthly, and normally by the twentieth Business Day following the end of the billing period. The kilowatt-hours sold by the RF/QF and the applicable avoided energy rate at which payments are being made shall accompany the payment to the RF/QF.

9.3.2 Payments to be made under this Contract shall, for a period of not longer than two (2) years, remain subject to adjustment based on billing adjustments due to error or omission by either Party, provided that such adjustments have been agreed to between the Parties.

10. Electricity Production and Plant Maintenance Schedule

10.1 No later than sixty (60) calendar days prior to the Capacity Delivery Date, and prior to October 1 of each calendar year thereafter during the term of this Contract, the RF/QF shall submit to PEF in writing a good-faith estimate of the amount of electricity to be generated by the Facility and delivered to PEF for each month of the following calendar year, including the time, duration and magnitude of any scheduled maintenance period(s) or reductions in Capacity. A RF/QF agrees to provide updates to its planned maintenance periods as they become known. The Parties agree to discuss coordinating scheduled maintenance schedules.

10.2 By October 31 of each calendar year, PEF shall notify the RF/QF in writing whether the requested scheduled maintenance periods in the detailed plan are acceptable. If PEF does not accept any of the requested scheduled maintenance periods, PEF shall advise the RF/QF of the time period closest to the requested period(s) when the outage(s) can be scheduled. The RF/QF shall only schedule outages during periods approved by PEF, and such approval shall not be unreasonably withheld. Once the schedule for the detailed plan has been established and approved, either Party requesting a subsequent change in such schedule, except when such change is due to Force Majeure, must obtain approval for such change from the other Party. Such approval shall not be unreasonably withheld or delayed. Scheduled maintenance outage days shall be limited to fifteen (15) days per calendar year. In no event shall maintenance periods be scheduled during the following periods: June 1 through September 15 and December 1 through and including the last day of February.

10.3 The RF/QF shall comply with reasonable requests by PEF regarding day-to-day and hour-by-hour communication between the Parties relative to electricity production and maintenance scheduling.

10.4 The Parties recognize that the intent of the availability factor in Section 4 of this Contract includes an allowance for scheduled outages, forced outages and forced reductions in the output of the Facility. Therefore, the RF/QF shall provide PEF with notification of any forced outage or reduction in output which shall include the time and date at which the forced outage or reduction occurred, a brief description of the cause of the outage or reduction and the time and date when the forced outage or reduction ceased and the Facility was able to return to normal operation. This notice shall be provided to PEF within seventy-two (72) hours of the end of the forced outage or reduction.

The RF/QF is required to provide the total electrical output to PEF except (i) during a period that was scheduled in Section 10.2, (ii) during a period in which notification of a forced outage or reduction was provided, (iii) during an event of Force Majeure or (iv) during a curtailment period as described in Section 10.5.5. In the event that the RF/QF does not deliver its full electrical output to PEF during an hour not excluded in the previous sentence then the RF/QF shall be charged a rate equal to the PEF's Rate Schedule COG-1 times the difference between the Committed Capacity and the actual energy received by PEF in that hour. If, in PEF's sole judgment, it is determined that the normal operation of the RF/QF requires it to cease operation or reduce its output, the charges in this Section 10.4 may be waived.

10.5 Dispatch and Control

10.5.1 Power supplied by the RF/QF hereunder shall be in the form of three-phase 60 hertz alternating current, at a nominal operating voltage of 13,800 volts (13.8 kV) and power factor dispatchable and controllable in the range of 90% lagging to 90% leading as measured at the interconnection point to maintain system operating parameters, including power factor, as specified from time to time by PEF.

10.5.2 The RF/QF shall operate the Facility with all system protective equipment in service whenever the Facility is connected to, or is operated in parallel with, PEF's system, except for normal testing and repair in accordance with good engineering and operating practices as agreed by the Parties. The RF/QF shall provide adequate system protection and control devices to ensure safe and protected operation of all energized equipment during normal testing and repair. All RF/QF facilities shall meet IEEE and industry standards. The RF/QF shall have independent, third party qualified personnel test, calibrate and certify in writing all protective equipment at least once every twelve (12) months in accordance with good engineering and operating practices. A unit functional trip test shall be performed after each overhaul of the Facility's turbine, generator or boilers and results provided to PEF in writing prior to returning the equipment to service. The specifics of the unit functional trip test will be consistent with good engineering and operating practices as agreed by the Parties.

10.5.3 If the Facility is separated from the PEF system for any reason, under no circumstances shall the RF/QF reconnect the Facility to PEF's system without first obtaining PEF'S specific approval.

10.5.4 During the term of this Contract, the RF/QF shall employ qualified personnel for managing, operating and maintaining the Facility and for coordinating such with PEF. The RF/QF shall ensure that operating personnel are on duty at all times, twenty-four (24) hours a calendar day and seven (7) calendar days a week. Additionally, during the term of this Contract, the RF/QF shall operate and maintain the Facility in such a manner as to ensure compliance with its obligations hereunder and in accordance with applicable law and Prudent Utility Practices.

10.5.5 PEF shall not be obligated to purchase, and may require curtailed or reduced deliveries of energy to the extent allowed under FPSC Rule 25-17.086 and under any curtailment plan which PEF may have on file with the FPSC from time to time.

10.5.6 During the term of this Contract, the RF/QF shall maintain sufficient fuel on the site of the Facility to deliver the capacity and energy associated with the Committed Capacity for an uninterrupted seventy-two-(72) hour period. At PEF's request, the RF/QF shall demonstrate this capability to PEF's reasonable satisfaction. During the term of this Contract, the RF/QF's output shall remain within a band of plus or minus ten percent (10%) of the daily output level or levels specified by the plant operator, in ninety percent (90%) of all operating hours under normal operating conditions. This calculation will be adjusted to exclude forced outage periods and periods during which the RF/QF's output is affected by a Force Majeure event.

11. Completion/Performance Security

11.1 Within ~~sixty-ninety (6090)~~ days of the Execution Date, RF/QF shall deliver to PEF Eligible Collateral in an amount according to Table 2. RF/QF's Performance Security shall be maintained throughout the Term although the amount of Eligible Collateral shall be adjusted from time to time in accordance with Table 2 and Section 11.4. The listed amounts are considered the initial amounts and use 2008 as the Base Year, with all amounts expressed in US Dollars.

Note: The amounts in the following Table are for 2008 and are subject to change based on utility cost estimates for any year subsequent to the Base Year.

TABLE 2

Credit Class	Amount per MW	Amount per MW
	Years 1 - 5	Years 6 - 10
A- and Above	\$45,000	\$30,000
BBB+ to BBB	\$65,000	\$55,000
BBB-	\$90,000	\$80,000
Below BBB-	\$135,000	\$90,000

- 11.2** In the event that a Material Adverse Change occurs in respect of RF/QF, then within two (2) Business Day(s) RF/QF shall deliver to PEF Supplemental Eligible Collateral equal to 50 percent of the current Eligible Collateral amount, provided however, that in the PEF's sole discretion, based on a review of the overall circumstances of RF/QF's Material Adverse Change, the total of the Eligible Collateral and the Supplemental Eligible Collateral may be reduced but in no event shall the amount be less than the Base Performance Security Amount.
- 11.4** Performance Security Annual Adjustments – The RF/QF Performance Security shall be adjusted on an annual basis beginning January 1, 2010 and each year of during the term of the Agreement. The values in Table 2 will be adjusted using the change in the Gross Domestic Price Implicit Price Deflator (GDPIPD) between the Base Year and each year during the term as reported in the Survey of Current Business published in January each year and revised thereafter, by the Bureau of Economic Analysis, United States Department of commerce, Washington, D.C. using the following formula: Current Performance Security amount (CPSA) multiplied by one plus the change in the GDPIPD, (CPSA X (1 + ΔGDPIPD))
- 11.5** Replacement Collateral, Release of Collateral - Upon any reduction of the amount of RF/QF Performance Security pursuant to Section 11.2 or 11.3 the beneficiary thereof shall upon two (2) Business Days written request by the other Party release any Eligible or Supplemental Eligible Collateral that is no longer required. The choice of the type of Eligible Collateral by a Party may be selected from time to time by such Party and upon receipt of substitute Eligible Collateral, the holder of the Eligible Collateral for which the substitution is being made shall promptly release such Eligible Collateral. Following any termination of this agreement, the Parties shall mutually agree to a final settlement of all obligations under this Agreement which such period shall not exceed 90 days from such termination date unless extended by mutual agreement between the Parties. After such settlement, any remaining Eligible Collateral posted by a Party that has not been drawn upon by the other Party pursuant to its rights under this Contract shall be returned to such Party. Any dispute between the Parties regarding such final settlement shall be resolved according to applicable procedures set forth in Section 20.9.

- 11.6** Draws, Replenishment - A Non-Defaulting Party may draw upon Eligible Collateral or Supplemental Eligible Collateral provided by the other Party following the occurrence of an Event of Default by such other Party or pursuant to the other provisions of this Agreement in order to recover any damages to which such Non-Defaulting Party is entitled to under this Contract. In the event of such a draw then, except in the circumstance when this Contract otherwise terminates, the Defaulting Party shall within two (2) Business Days replenish the Eligible Collateral or Supplemental Eligible Collateral to the full amounts required by Table 2.
- 11.7** Reporting - RF/QF shall promptly notify PEF of any circumstance that results in RF/QF's failure to be in compliance with the RF/QF Performance Security Requirements of Section 11. From time to time, at PEF's written request, RF/QF shall provide PEF with such evidence as PEF may reasonably request, that RF/QF and any RF/QF Guarantor RF/QF Guarantee, Letter of Credit or Security Account is in Full Compliance with this agreement.

12. Termination Fee

12.1 In the event that the RF/QF receives Capacity Payments pursuant to Option B, Option C, or Option D of Appendix D ~~or any Capacity Payment schedule in Appendix E that differs from a Normal Capacity Payment Rate as calculated in FPSC Rule 25-17.0832(6)(a)~~, then upon the termination of this Contract, the RF/QF shall owe and be liable to PEF for the Termination Fee. The RF/QF's obligation to pay the Termination Fee shall survive the termination of this Contract. PEF shall provide the RF/QF, on a monthly basis, a calculation of the Termination Fee.

12.1.1 The Termination Fee shall be secured by the RF/QF by: (i) an unconditional, irrevocable, direct pay letter(s) of credit issued by a financial institution(s) with an investment grade credit rating in form and substance acceptable to PEF (including provisions (a) permitting partial and full draws and (b) permitting PEF to draw upon such Letter of Credit, in full, if such Letter of Credit is not renewed or replaced at least ten (10) Business Days prior to its expiration date); (ii) a bond issued by a financially sound company in form and substance acceptable to PEF; or (iii) a cash deposit with PEF (any of (i), (ii), or (iii), the "Termination Security"). The specific security instrument selected by the RF/QF for purposes of this Contract is:

- (XX) Unconditional, irrevocable, direct pay letter(s) of credit.
- () Bond.
- () Cash deposit(s) with PEF.

12.1.2 PEF shall have the right and the RF/QF shall be required to monitor the financial condition of (i) the issuer(s) in the case of any Letter of Credit and (ii) the insurer(s), in the case of any bond. In the event the senior debt rating of any issuer(s) or insurer(s) has deteriorated to a level below investment grade, PEF may require the RF/QF to replace the letter(s) of credit or the bond, as applicable. In the event that PEF notifies the RF/QF that it requires such a replacement, the replacement letter(s) of credit or bond, as applicable, must be issued by a financial institution(s) or insurer(s) with an investment grade credit rating, and meet the requirements of Section 12.1.1 within thirty (30) calendar days following such notification. Failure by the RF/QF to comply with the requirements of this Section 12.1.2 shall be grounds for PEF to draw in full on any existing Letter of Credit or bond and to exercise any other remedies it may have hereunder.

12.1.3 After the close of each calendar quarter (March 31, June 30, September 30, and December 31) occurring subsequent to the Capacity Delivery Date, upon PEF's issuance of the Termination Fee calculation as described in Section 12.1, the RF/QF must provide PEF, within ten calendar (10) days, written assurance and documentation (the "Security Documentation"), in form and substance acceptable to PEF, that the amount of the Termination Security is sufficient to cover the balance of the Termination Fee. In addition to the foregoing, at any time during the term of this Contract, PEF shall have the right to request and the RF/QF shall be obligated to deliver within five (5) calendar days of such request, such Security Documentation. Failure by the RF/QF to comply with the requirements of this Section 12.1.3 shall be grounds for PEF to draw in full on any existing Letter of Credit or bond or to retain any cash deposit, and to exercise any other remedies it may have hereunder.

12.1.4 Upon any termination of this Contract following the Capacity Delivery Date, PEF shall be entitled to receive (and in the case of the letter(s) of credit or bond, draw upon such letter(s) of credit or bond) and retain one hundred percent (100%) of the Termination Security.

13. Performance Factor

PEF desires to provide an incentive to the RF/QF to operate the Facility during on-peak and off-peak periods in a manner that approximates the projected performance of the Avoided Unit. A formula to achieve this objective is attached as Appendix A.

14. Default

Notwithstanding the occurrence of any Force Majeure as described in Section 18, each of the following shall constitute an Event of Default:

- (a) the RF/QF changes or modifies the Facility from that provided in Section 2 with respect to its type, location, technology or fuel source, without the prior written approval of PEF;
- (b) after the Capacity Delivery Date, the Facility fails for twelve (12) consecutive months to maintain an Annual Capacity Billing Factor, as described in Appendix A, of at least seventy one percent (69%);
- (c) the RF/QF fails to satisfy its obligations to maintain sufficient fuel on the site of the Facility to deliver the capacity and energy associated with the Committed Capacity for an uninterrupted seventy-two-(72) hour period under Section 10.5.6 hereof;
- (d) the RF/QF fails to provide the Completion/Performance Security and the Termination Fee and to comply with any of the provisions of Sections 11 and 12 hereof
- (e) the RF/QF, or the entity which owns or controls the RF/QF, ceases the conduct of active business; or if proceedings under the federal bankruptcy law or insolvency laws shall be instituted by or for or against the RF/QF or the entity which owns or controls the RF/QF; or if a receiver shall be appointed for the RF/QF or any of its assets or properties, or for the entity which owns or controls the RF/QF; or if any part of the RF/QF's assets shall be attached, levied upon, encumbered, pledged, seized or taken under any judicial process, and such proceedings shall not be vacated or fully stayed within thirty (30) calendar days thereof; or if the RF/QF shall make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due;
- (f) the RF/QF fails to give proper assurance of adequate performance as specified under this Contract within thirty (30) calendar days after PEF, with reasonable grounds for insecurity, has requested in writing such assurance;
- (g) the RF/QF fails to achieve licensing, certification, and all federal, state and local governmental, environmental, and licensing approvals required to initiate construction of the Facility by no later than the Completed Permits Date;
- (h) the RF/QF fails to comply with the provisions of Section 20.3 hereof;
- (i) any of the representations or warranties made by the RF/QF in this Contract is false or misleading in any material respect as of the time made;

- (j) if, at any time after the Capacity Delivery Date, the RF/QF reduces the Committed Capacity due to an event of Force Majeure and fails to repair the Facility and reset the Committed Capacity to the level set forth in Section 7.2 (as such level may be reduced by Section 7.4) within twelve (12) months following the occurrence of such event of Force Majeure; or
- (k) the RF/QF breaches any material provision of this Contract not specifically mentioned in this Section 14.

15. PEF's Rights in the Event of Default

15.1 Upon the occurrence of any of the Events of Default in Section 14, PEF may, at its option:

15.1.1 immediately terminate this Contract, without penalty or further obligation, except as set forth in Section 15.2, by written notice to the RF/QF, and offset against any payment(s) due from PEF to the RF/QF, any monies otherwise due from the RF/QF to PEF;

15.1.2 enforce the provisions of the Termination Security requirement pursuant to Section 12 hereof; and

15.1.3 exercise any other remedy(ies) which may be available to PEF at law or in equity.

15.2 Termination shall not affect the liability of either Party for obligations arising prior to such termination or for damages, if any, resulting from any breach of this Contract.

16. Indemnification

16.1 PEF and the RF/QF shall each be responsible for its own facilities. PEF and the RF/QF shall each be responsible for ensuring adequate safeguards for other PEF customers, PEF's and the RF/QF's personnel and equipment, and for the protection of its own generating system. Each Party (the "Indemnifying Party") agrees, to the extent permitted by applicable law, to indemnify, pay, defend, and hold harmless the other Party (the "Indemnified Party") and its officers, directors, employees, agents and contractors (hereinafter called respectively, "PEF Entities" and "RF/QF Entities") from and against any and all claims, demands, costs or expenses for loss, damage, or injury to persons or property of the Indemnified Party (or to third parties) directly caused by, arising out of, or resulting from:

- (a) a breach by the Indemnifying Party of its covenants, representations, and warranties or obligations hereunder;
- (b) any act or omission by the Indemnifying Party or its contractors, agents, servants or employees in connection with the installation or operation of its generation system or the operation thereof in connection with the other Party's system;
- (c) any defect in, failure of, or fault related to, the Indemnifying Party's generation system;
- (d) the negligence or willful misconduct of the Indemnifying Party or its contractors, agents, servants or employees; or
- (e) any other event or act that is the result of, or proximately caused by, the Indemnifying Party or its contractors, agents, servants or employees related to the Contract or the Parties' performance thereunder.

16.1 Payment by an Indemnified Party to a third party shall not be a condition precedent to the obligations of the Indemnifying Party under Section 16. No Indemnified Party under Section 16 shall settle any claim for which it claims indemnification hereunder without first allowing the Indemnifying Party the right to defend such a claim. The Indemnifying Party shall have no obligations under Section 16 in the event of a breach of the foregoing sentence by the Indemnified Party. Section 16 shall survive termination of this Agreement.

17. Insurance

- 17.1** The RF/QF shall procure or cause to be procured and shall maintain throughout the entire Term of this Contract, a policy or policies of liability insurance issued by an insurer acceptable to PEF on a standard "Insurance Services Office" commercial general liability form (such policy or policies, collectively, the "RF/QF Insurance"). An original certificate of insurance shall be delivered to PEF at least fifteen (15) calendar days prior to the start of any interconnection work. At a minimum, the RF/QF Insurance shall contain (a) an endorsement providing coverage, including products liability/completed operations coverage for the term of this Contract, and (b) a broad form contractual liability endorsement covering liabilities (i) which might arise under, or in the performance or nonperformance of, this Contract and the Interconnection Agreement, or (ii) caused by operation of the Facility or any of the RF/QF's equipment or by the RF/QF's failure to maintain the Facility or the RF/QF's equipment in satisfactory and safe operating condition. Effective at least fifteen (15) calendar days prior to the synchronization of the Facility with PEF's system, the RF/QF Insurance shall be amended to include coverage for interruption or curtailment of power supply in accordance with industry standards. Without limiting the foregoing, the RF/QF Insurance must be reasonably acceptable to PEF. Any premium assessment or deductible shall be for the account of the RF/QF and not PEF.
- 17.2** The RF/QF Insurance shall have a minimum limit of one million dollars (\$1,000,000.00) per occurrence, combined single limit, for bodily injury (including death) or property damage.
- 17.3** To the extent that the RF/QF Insurance is on a "claims made" basis, the retroactive date of the policy(ies) shall be the Effective Date of this Contract or such other date as may be agreed upon to protect the interests of the PEF Entities and the RF/QF Entities. Furthermore, to the extent the RF/QF Insurance is on a "claims made" basis, the RF/QF's duty to provide insurance coverage shall survive the termination of this Contract until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. To the extent the RF/QF Insurance is on an "occurrence" basis, such insurance shall be maintained in effect at all times by the RF/QF during the term of this Contract.
- 17.4** The RF/QF Insurance shall provide that it may not be cancelled or materially altered without at least thirty (30) calendar days' written notice to PEF. The RF/QF shall provide PEF with a copy of any material communication or notice related to the RF/QF Insurance within ten (10) Business Days of the RF/QF's receipt or issuance thereof.

17.5 The RF/QF shall be designated as the named insured and PEF shall be designated as an additional named insured under the RF/QF Insurance. The RF/QF Insurance shall be endorsed to be primary to any coverage maintained by PEF.

18. Force Majeure

18.1 “Force Majeure” is defined as an event or circumstance that is not reasonably foreseeable, is beyond the reasonable control of and is not caused by the negligence or lack of due diligence of the Party claiming Force Majeure or its contractors or suppliers and adversely affects the performance by that Party of its obligations under or pursuant to this agreement. Such events or circumstances may include, but are not limited to, actions or inactions of civil or military authority (including courts and governmental or administrative agencies), acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, explosions and fires not originating in the Facility or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes or difficulties (not caused by the failure of the affected party to comply with the terms of a collective bargaining agreement). Force Majeure shall not be based on (i) the loss of PEF’s markets; (ii) PEF’s economic inability to use or resell the Capacity and Energy purchased hereunder; or (iii) RF/QF’s inability to sell the Capacity or Energy at a price greater than the price herein. Equipment breakdown or inability to use equipment caused by its design, construction, operation, maintenance or inability to meet regulatory standards, or otherwise caused by an event originating in the control of a Party, or a Party’s failure to obtain on a timely basis and maintain a necessary permit or other regulatory approval, shall not be considered an event of Force Majeure, unless such Party can reasonably demonstrate, to the reasonable satisfaction of the non-claiming Party, that the event was not reasonably foreseeable, was beyond the Party’s reasonable control and was not caused by the negligence or lack of due diligence of the Party claiming Force Majeure or its agents, contractors or suppliers and adversely affects the performance by that Party of its obligations under or pursuant to this agreement.

18.2 Except as otherwise provided in this Contract, each Party shall be excused from performance when its nonperformance was caused, directly or indirectly by an event of Force Majeure.

18.3 In the event of any delay or nonperformance resulting from an event of Force Majeure, the Party claiming Force Majeure shall notify the other Party in writing within five (5) Business Days of the occurrence of the event of Force Majeure, of the nature cause, date of commencement thereof and the anticipated extent of such delay, and shall indicate whether any deadlines or date(s), imposed hereunder may be affected thereby. The suspension of performance shall be of no greater scope and of no greater duration than the cure for the Force Majeure requires. A Party claiming Force Majeure shall not be entitled to any relief therefore unless and until conforming notice is provided. The Party claiming Force Majeure shall notify the other Party of the cessation of the event of Force Majeure or of the conclusion of the affected Party’s cure for the event of Force Majeure in either case within two (2) Business Days thereof.

- 18.4** The Party claiming Force Majeure shall use its best efforts to cure the cause(s) preventing its performance of this Contract; provided, however, the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the affected Party and such Party shall not be required to settle such strikes, lockouts or other labor disputes by acceding to demands which such Party deems to be unfavorable.
- 18.5** If the RF/QF suffers an occurrence of an event of Force Majeure that reduces the generating capability of the Facility below the Committed Capacity, the RF/QF may, upon notice to PEF temporarily adjust the Committed Capacity as provided in Sections 18.5 and 18.6. Such adjustment shall be effective the first calendar day immediately following PEF's receipt of the notice or such later date as may be specified by the RF/QF. Furthermore, such adjustment shall be the minimum amount necessitated by the event of Force Majeure.
- 18.6** If the Facility is rendered completely inoperative as a result of Force Majeure, the RF/QF shall temporarily set the Committed Capacity equal to 0 kW until such time as the Facility can partially or fully operate at the Committed Capacity that existed prior to the Force Majeure. If the Committed Capacity is 0 kW, PEF shall have no obligation to make Capacity Payments hereunder.
- 18.7** If, at any time during the occurrence of an event of Force Majeure or during its cure, the Facility can partially or fully operate, then the RF/QF shall temporarily set the Committed Capacity at the maximum capability that the Facility can reasonably be expected to operate.
- 18.8** Upon the cessation of the event of Force Majeure or the conclusion of the cure for the event of Force Majeure, the Committed Capacity shall be restored to the Committed Capacity that existed immediately prior to the Force Majeure. Notwithstanding any other provisions of this Contract, upon such cessation or cure, PEF shall have right to require a Committed Capacity Test to demonstrate the Facility's compliance with the requirements of this Section 18.8. Any such Committed Capacity Test required by PEF shall be additional to any Committed Capacity Test under Section 7.4.
- 18.9** During the occurrence of an event of Force Majeure and a reduction in Committed Capacity under Section 18.4 all Monthly Capacity Payments shall reflect, pro rata, the reduction in Committed Capacity, and the Monthly Capacity Payments will continue to be calculated in accordance with the pay-for-performance provisions in Appendix A.

18.10 The RF/QF agrees to be responsible for and pay the costs necessary to reactivate the Facility and/or the interconnection with PEF's system if the same is (are) rendered inoperable due to actions of the RF/QF, its agents, or Force Majeure events affecting the RF/QF, the Facility or the interconnection with PEF. PEF agrees to reactivate, at its own cost, the interconnection with the Facility in circumstances where any interruptions to such interconnections are caused by PEF or its agents.

19. Representations, Warranties, and Covenants of RF/QF

The RF/QF represents and warrants that as of the Effective Date:

19.1 Organization, Standing and Qualification

The RF/QF is a corporation (corporation, partnership, or other, as applicable) duly organized and validly existing in good standing under the laws of Florida and has all necessary power and authority to carry on its business as presently conducted to own or hold under lease its properties and to enter into and perform its obligations under this Contract and all other related documents and agreements to which it is or shall be a Party. The RF/QF is duly qualified or licensed to do business in the State of Florida and in all other jurisdictions wherein the nature of its business and operations or the character of the properties owned or leased by it makes such qualification or licensing necessary and where the failure to be so qualified or licensed would impair its ability to perform its obligations under this Contract or would result in a material liability to or would have a material adverse effect on PEF.

19.2 Due Authorization, No Approvals, No Defaults

Each of the execution, delivery and performance by the RF/QF of this Contract has been duly authorized by all necessary action on the part of the RF/QF, does not require any approval, except as has been heretofore obtained, of the shareholders (shareholders, partners, or others, as applicable) of the RF/QF or any consent of or approval from any trustee, lessor or holder of any indebtedness or other obligation of the RF/QF, except for such as have been duly obtained, and does not contravene or constitute a default under any law, the articles of incorporation (articles of incorporation, bylaws, or other as applicable) of the RF/QF, or any agreement, judgment, injunction, order, decree or other instrument binding upon the RF/QF, or subject the Facility or any component part thereof to any lien other than as contemplated or permitted by this Contract.

19.3 Compliance with Laws

The RF/QF has knowledge of all laws and business practices that must be followed in performing its obligations under this Contract. The RF/QF is in compliance with all laws, except to the extent that failure to comply therewith would not, in the aggregate, have a material adverse effect on the RF/QF or PEF.

19.4 Governmental Approvals

Except as expressly contemplated herein, neither the execution and delivery by the RF/QF of this Contract, nor the consummation by the RF/QF of any of the transaction contemplated thereby, requires the consent or approval of, the giving of notice to, the registration with, the recording or filing of any document with, or the taking of any other action with respect to governmental authority, except with respect to permits (a) which have already been obtained and are in full force and effect or (b) are not yet required (and with respect to which the RF/QF has no reason to believe that the same will not be readily obtainable in the ordinary course of business upon due application therefore).

19.5 No Suits, Proceedings

There are no actions, suits, proceedings or investigations pending or, to the knowledge of the RF/QF, threatened against it at law or in equity before any court or tribunal of the United States or any other jurisdiction which individually or in the aggregate could result in any materially adverse effect on the RF/QF's business, properties, or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under this Contract. The RF/QF has no knowledge of a violation or default with respect to any law which could result in any such materially adverse effect or impairment.

19.6 Environmental Matters

To the best of its knowledge after diligent inquiry, the RF/QF knows of no (a) existing violations of any environmental laws at the Facility, including those governing hazardous materials or (b) pending, ongoing, or unresolved administrative or enforcement investigations, compliance orders, claims, demands, actions, or other litigation brought by governmental authorities or other third parties alleging violations of any environmental law or permit which would materially and adversely affect the operation of the Facility as contemplated by this Contract.

20. General Provisions

20.1 Project Viability

To assist PEF in assessing the RF/QF's financial and technical viability, the RF/QF shall provide the information and documents requested in Appendix C or substantially similar documents, to the extent the documents apply to the type of Facility covered by this Contract and to the extent the documents are available. All documents to be considered by PEF must be submitted at the time this Contract is presented to PEF. Failure to provide the following such documents may result in a determination of non-viability by PEF.

20.2 Permits

The RF/QF hereby agrees to obtain and maintain any and all permits, certifications, licenses, consents or approvals of any governmental authority which the RF/QF is required to obtain as a prerequisite to engaging in the activities specified in this Contract.

20.3 Project Management

If requested by PEF, the RF/QF shall submit to PEF its integrated project schedule for PEF's review within sixty (60) calendar days from the execution of this Contract, and a start-up and test schedule for the Facility at least sixty (60) calendar days prior to start-up and testing of the Facility. These schedules shall identify key licensing, permitting, construction and operating milestone dates and activities. If requested by PEF, the RF/QF shall submit progress reports in a form satisfactory to PEF every calendar month until the Capacity Delivery Date and shall notify PEF of any changes in such schedules within ten (10) calendar days after such changes are determined. PEF shall have the right to monitor the construction, start-up and testing of the Facility, either on-site or off-site. PEF's technical review and inspections of the Facility and resulting requests, if any, shall not be construed as endorsing the design thereof or as any warranty as to the safety, durability or reliability of the Facility.

The RF/QF shall provide PEF with the final designer's/manufacture's generator capability curves, protective relay types, proposed protective relay settings, main one-line diagrams, protective relay functional diagrams, and alternating current and direct elementary diagrams for review and inspection at PEF no later than one hundred eighty (180) calendar days prior to the initial synchronization date.

20.4 Assignment

Either Party may not assign this Contract, without the other Party's prior written approval, which approval may not be unreasonably withheld or delayed.

20.5 Disclaimer

In executing this Contract, PEF does not, nor should it be construed, to extend its credit or financial support for benefit of any third parties lending money to or having other transactions with the RF/QF or any assigns of this Contract.

20.6 Notification

All formal notices relating to this Contract shall be deemed duly given when delivered in person, or sent by registered or certified mail, or sent by fax if followed immediately with a copy sent by registered or certified mail, to the individuals designated below. The Parties designate the following individuals to be notified or to whom payment shall be sent until such time as either Party furnishes the other Party written instructions to contact another individual:

For the RF/QF:

Russell W. Spitz, President
Vision Power Systems, Inc.
3733 Crown Point Road
Jacksonville, Florida 32257

For PEF:

Progress Energy Florida
Cogeneration Manager PEF 155
299 First Avenue North
St. Petersburg, FL 33701

Contracts and related documents may be mailed to the address below or delivered during normal business hours (8:00 a.m. to 4:45 p.m.) to the visitors' entrance at the address below:

Florida Power Corporation
d/b/a Progress Energy Florida, Inc.
299 First Avenue North
St. Petersburg, FL 33701

Attention: Cogeneration Manager PEF 155

20.7 Applicable Law

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

20.8 Taxation

In the event that PEF becomes liable for additional taxes, including interest and/or penalties arising from an Internal Revenue Services determination, through audit, ruling or other authority, that PEF's payments to the RF/QF for Capacity under Options B, C, or D of the Appendix D are not fully deductible when paid (additional tax liability), PEF may bill the RF/QF monthly for the costs, including carrying charges, interest and/or penalties, associated with the fact that all or a portion of these Capacity Payments are not currently deductible for federal and/or state income tax purposes. PEF, at its option, may offset or recoup these costs against amounts due the RF/QF hereunder. These costs would be calculated so as to place PEF in the same economic position in which it would have been if the entire Capacity Payments had been deductible in the period in which the payments were made. If PEF decides to appeal the Internal Revenue Service's determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with PEF.

20.9 Resolution of Disputes

20.9.1 Notice of Dispute

In the event that any dispute, controversy or claim arising out of or relating to this Contract or the breach, termination or validity thereof should arise between the Parties (a "Dispute"), the Party may declare a Dispute by delivering to the other Party a written notice identifying the disputed issue.

20.9.2 Resolution by Parties

Upon receipt of a written notice claiming a Dispute, executives of both Parties shall meet at a mutually agreeable time and place within ten (10) Business Days after delivery of such notice and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Dispute. In such meetings and exchanges, a Party shall have the right to designate as confidential any information that such Party offers. No confidential information exchanged in such meetings for the purpose of resolving a Dispute may be used by a Party in litigation against the other Party. If the matter has not been resolved within thirty (30) Days of the disputing Party's notice having been issued, or if the Parties fail to meet within ten (10) Business Days as required above, either Party may initiate binding arbitration in St. Petersburg, Florida, conducted in accordance with the then current American Arbitration Association's ("AAA") Large, Complex Commercial Rules or other mutually agreed upon procedures.

20.10 Limitation of Liability

IN NO EVENT SHALL PEF, ITS PARENT CORPORATION, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR MULTIPLE DAMAGES RESULTING FROM ANY CLAIM OR CAUSE OF ACTION, WHETHER BROUGHT IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER LEGAL THEORY.

20.11 Severability

If any part of this Contract, for any reason, is declared invalid or unenforceable by a public authority of appropriate jurisdiction, then such decision shall not affect the validity of the remainder of the Contract, which remainder shall remain in force and effect as if this Contract had been executed without the invalid or unenforceable portion.

20.12 Complete Agreement and Amendments

All previous communications or agreements between the Parties, whether verbal or written, with reference to the subject matter of this Contract are hereby abrogated. No amendment or modification to this Contract shall be binding unless it shall be set forth in writing and duly executed by both Parties. This Contract constitutes the entire agreement between the Parties.

20.13 Survival of Contract

Subject to the requirements of Section 20.4, this Contract, as it may be amended from time to time, shall be binding upon, and inure to the benefit of, the Parties' respective successors-in-interest and legal representatives.

20.14 Record Retention

The RF/QF shall maintain for a period of five (5) years from the date of termination hereof all records relating to the performance of its obligations hereunder, and to cause all RF/QF Entities to retain for the same period all such records.

20.15 No Waiver

No waiver of any of the terms and conditions of this Contract shall be effective unless in writing and signed by the Party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The failure of a Party to insist, in any instance, on the strict performance of any of the terms and conditions hereof shall not be construed as a waiver of such Party's right in the future to insist on such strict performance.

20.16 Set-Off

PEF may at any time, but shall be under no obligation to, set off or recoup any and all sums due from the RF/QF against sums due to the RF/QF hereunder without undergoing any legal process.

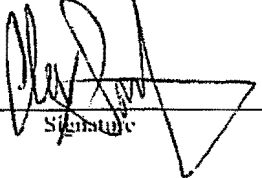
20.17 Change in Environmental Law or Other Regulatory Requirements

- (a) As used herein, "Change(s) in Environmental Law or Other Regulatory Requirements" means the enactment, adoption, promulgation, implementation, or issuance of, or a new or changed interpretation of, any statute, rule, regulation, permit, license, judgment, order or approval by a governmental entity that specifically addresses environmental or regulatory issues and that takes effect after the Effective Date.
- (b) The Parties acknowledge that Change(s) in Environmental Law or Other Regulatory Requirements could significantly affect the cost of the Avoided Unit ("Avoided Unit Cost Changes") and agree that, if any such change(s) should affect the cost of the Avoided Unit more than the Threshold defined in Section 20.17(c) below, the Party affected by such change(s) may avail itself of the remedy set forth in Section 20.17(d) below as its sole and exclusive remedy.
- (c) The Parties recognize and agree that certain Change(s) in Environmental Law or Other Regulatory Requirements may occur that do not rise to a level that the Parties desire to impact this Agreement. Accordingly, the Parties agree that for the purposes of this Agreement, such change(s) will not be deemed to have occurred unless there is an increase in the Avoided Cost resulting from such change(s) greater than 12.00% over the Avoided Unit cost contemplated as of the Execution Date (the "Threshold").

- (d) If an Avoided Unit Cost Change meets the threshold set forth in Section 20.17(c) above, the affected Party may request the avoided cost payments under this Contract be recalculated and that the avoided cost payments for the remaining term of the Contract be adjusted based on the recalculation. Any dispute regarding the application of this Section 20.17 shall be resolved in accordance with Section 20.9.

IN WITNESS WHEREOF, the RF QF and PEF executed this Contract on the later of the dates set forth below.

Vision / FL LLC



Signature

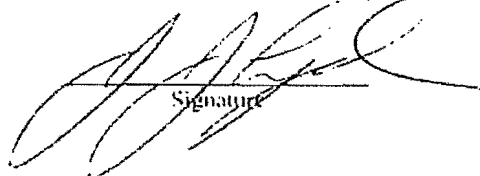
Alexander W. Spitz

President

7/08/09

Date

FLORIDA POWER CORPORATION d/b/a
PROGRESS ENERGY FLORIDA, INC.



Signature

Jeffrey J. Lyash

President and CEO - PEF

6/30/09

Date

APPENDIX A
TO
PROGRESS ENERGY FLORIDA
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
NEGOTIATED CONTRACT

MONTHLY CAPACITY PAYMENT CALCULATION

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

- A. In the event that the ACBF is less than 69%, then no Monthly Capacity Payment shall be due. That is:

$$\text{MCP} = 0$$

- B. In the event that the ACBF is equal to or greater than 69% but less than 89%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$\text{MCP} = \text{BCP} \times [1 - [5 \times (.89 - \text{ACBF})]] \times \text{CC}$$

- C. In the event that the ACBF is equal to or greater than 89%, then the Monthly Capacity Payment shall be calculated by using the following formula:

$$\text{MCP} = \text{BCP} \times \text{CC}$$

Where:

MCP = Monthly Capacity Payment in dollars.

BCP = Base Capacity Payment in \$/kW/Month as specified in Appendix D.

CC = Committed Capacity in kW.

ACBF = Annual Capacity Billing Factor. The ACBF shall be the electric energy actually received by PEF for the 12 consecutive months preceding the date of calculation excluding any energy received during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW, divided by the product of the Committed Capacity and the number of hours in the 12 consecutive months preceding the date of calculation excluding the hours during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW. If an event of Force Majeure occurs during the 12 consecutive months preceding the date of calculation in which the Committed Capacity is temporarily set to a value greater than 0 kW then the 12 month rolling average will be pro-rated accordingly. During the first 12 consecutive Monthly Billing Periods commencing with the first Monthly Billing Period in which Capacity Payments are to be made, the calculation of 12-month rolling average ACBF shall be performed as follows (a) during the first Monthly Billing Period, the ACBF shall be equal to the Monthly Availability Factor; (b) thereafter, the calculation of the ACBF shall be computed by electric energy actually received by PEF for the number of full consecutive months preceding the date of calculation excluding any energy received during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW, divided by the product of the Committed Capacity and the number of hours in the number of full consecutive months preceding the date of calculation excluding the hours during an event of Force Majeure in which the Committed Capacity is temporarily set equal to 0 kW. If an event of Force Majeure occurs during the months preceding the date of calculation in which the Committed Capacity is temporarily set to a value greater than 0 kW then the 12 month rolling average will be pro-rated accordingly. This calculation shall be performed at the end of each Monthly Billing Period until enough Monthly Billing Periods have elapsed to calculate a true 12-month rolling average ACBF.

MAF = Monthly Availability Factor. The total energy received during the Monthly Billing Period for which the calculation is made, divided by the product of Committed Capacity times the total hours during the Monthly Billing Period.

Monthly Billing Period = The period beginning on the first calendar day of each calendar month, except that the initial Monthly Billing Period shall consist of the period beginning 12:01 a.m., on the Capacity Delivery Date and ending with the last calendar day of such month.

**APPENDIX B
TO
PROGRESS ENERGY FLORIDA
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
NEGOTIATED CONTRACT**

TERMINATION FEE

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

The "Termination Fee" shall be the sum of the values for each month beginning with the month in which the Capacity Delivery Date occurs through the month of the Termination Date (or month of calculation, as the case may be) computed according to the following formula:

$$\sum_{i=1}^n (MCP_i - MCPC_i) \cdot (1 + r)^{(n-i)}$$

with: MCPC = 0 for all periods prior to the in-service date of the Avoided Unit:

where

- i = number of Monthly Billing Period commencing with the Capacity Delivery Date (i.e., the month in which Capacity Delivery Date occurs = 1; the month following this month in which Capacity Delivery Date occurs = 2 etc.)
- n = the number of Monthly Billing Periods which have elapsed from the month in which the Capacity Delivery Date occurs through the month of termination (or month of calculation, as the case may be)
- r = PEF's incremental after-tax avoided cost of capital (defined as r in Appendix D).
- MCP_i = Monthly Capacity Payment paid to RF/QFQF corresponding to the Monthly Billing Period i, calculated in accordance with Appendix A.
- MCPC_i = Monthly Capacity Payment for Option A corresponding to the Monthly Billing Period i, calculated in accordance with this Contract.

In the event that for any Monthly Billing Period, the computation of the value of the Termination Fee for such Monthly Billing Period (as set forth above) yields a value equal to or greater than zero, the amount of the Termination Fee shall be increased by the amount of such value.

In the event that for any Monthly Billing Period, the computation of the value of the Termination Fee for such Monthly Billing Period (as set forth above) yields a value less than zero, the amount of the Termination Fee shall be decreased by the amount of such value expressed as a positive number (the "Initial Reduction Value"); provided, however, that such Initial Reduction Value shall be subject to the following adjustments (the Initial Reduction Value, as adjusted, the "Reduction Value"):

- a. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor, as defined in Appendix A is less than 69%, then the Initial Reduction Value shall be adjusted to equal zero (Reduction Value = 0), and the Termination Fee shall not be reduced for the applicable Monthly Billing Period.
- b. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor , as defined in Appendix A, is equal to or greater than 69% but less than 89%, than the Reduction Value shall be determined as follows:

$$\text{Reduction Value} = \text{Initial Reduction Value} \times [5 \times (.89 - \text{ACBF})]$$

For the applicable Monthly Billing period, the Termination Fee shall be reduced by the amount of such Reduction Value.

- c. In the event that in the applicable Monthly Billing Period the Annual Capacity Billing Factor, as defined in Appendix A, is equal to or greater than 89%, then the Initial Reduction Value shall not be adjusted (Reduction Value = Initial Reduction Value), and the Termination Fee shall be reduced for the applicable Monthly Billing period by the amount of the Initial Reduction Value.

In no event shall PEF be liable to the RF/QF at any time for any amount by which the Termination Fee, adjusted in accordance with the foregoing, is less than zero (0).

**APPENDIX C
TO
PROGRESS ENERGY FLORIDA
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
NEGOTIATED CONTRACT**

DETAILED PROJECT INFORMATION

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

Each eligible Contract received by PEF will be evaluated to determine if the underlying RF/QF project is financially and technically viable. The RF/QF shall, to the extent available, provide PEF with a detailed project proposal which addresses the information requested below:

I. FACILITY DESCRIPTION

- Project Name Vision / FL I LLC
- Project Location Osceola County, West of Yeehaw JCT and south of HWY 60
- * Street Address TBD
- * Size Plot Plan 29,000 acres
- * Legal Description of Site TBD

- Generating Technology Steam Turbine
- Primary Fuel Closed Loop Sweet Sorghum Bagasse
- Alternate Fuel (if applicable) n/a
- Committed Capacity 40 MW
- Expected In-Service Date 16 – 18 months after signed and approval by PSC Contract

- Contact Person Russell W. Spitz

- * Individual's Name and Title Russell W. Spitz, President
- * Company Name Vision / FL I LLC, a wholly owned subsidiary of Vision Power Systems, Inc.
- * Address 3733 Crown Point Road, Jacksonville, FL 32257
- * Telephone Number (904) 288-6516
- * Fax Number (904) 260-4515

II. PROJECT PARTICIPANTS

- Indicate the entities responsible for the following project management activities and provide a detailed description of the experience and capabilities of the entities:

APPENDIX C II PROJECT PARTICIPANTS

Project Development	Vision Power Systems, Inc.
Siting and Licensing the Facility	Vision Power Systems, Inc.
Designing the Facility	Vision Power Systems, Inc Tomsa Destil.
Constructing the Facility	Vision Power Systems, Inc. Tomsa Destil
Securing the Fuel Supply	Vision Power Systems, Inc.
Operating the Facility	Vision Power Systems, Inc.

APPENDIX C II

VISION POWER SYSTEMS, INC. ELECTRICAL FACILITIES

<u>Plant</u>	<u>#</u>	<u>EQUIPMENT</u>				
V/SOB	4	900 kW Gensets				
V/AMER	4	1500 kW Gensets				
V/BUSH	2	900 kW Gensets				
V/Z	3	900 kW Gensets				
V/NE	2	140,000 LBS/H	650/750	&	1	6 MW BPT
V/REN	2	120,000 LBS/H	650/750	&	1	5 MW T BPT
V/ER	2	100,000/LBS	600/750	&	1	4 MW BPT
V/ZW	3	180,000 LBS/H	600/750	&	1	2.5 MW COND T
V/DAM	2	110,000 LBS/H	600/750	&	1	7 MW BPT
	1	250,000 LBS/H	1000/1200	&	1	18 MW COND T

FINANCING STRUCTURE:

Non-recourse, fixed rate, 10 Year Term Loans, for 100% of Capital Costs. Based on 10 Year Initial Term PPA with host clients that contain "Hell or High Water, Take or Pay" monthly payments that amortize all debt in 10 Years.

APPENDIX C III FUEL SUPPLY

Closed Loop Sweet Sorghum Bagasse 8,000 BTUs Dry
Sulfur .01% Ash 7%

This is a combined Ethanol / Electric Power Plant where the sweet sorghum is stripped of its sugar juice to be converted into Ethanol and the remaining stacks of Closed Loop Bagasse is used for the Power Plant Fuel.

The Sweet Sorghum will be grown by Vision on 29,000 acres with two crops per acre per year which provides a 10% safety factor.

The acreage will either be with a long term lease or owned.

100% of the AFR is covered by this fuel arrangement.

The Power Plant is situated within the 29,000 acres.

The fuel is harvested by the company on a daily basis and hauled to the on-site Ethanol / Power Plant by the company's own trucks.

This a closed loop system with everything required for operations contain within the acreage and operated by the company.

50 MW will be provided of which 40 MW will be exported to PEF.

A minimum of 158 acres will be harvested daily with each acre providing 17.5 tons Bagasse which will produce 550,000 LBS/H 600/750 Steam and 50 MW.

A five day 120 hour backup supply of Bagasse will be maintained at the power plant at all times.

APPENDIX C IV PLANT DISPATCHABILITY / CONTROLLABILITY

Ramp Rate (MW/Minute): (0.825MW/Minute)

Our generator control package will allow a ramp rate of between 0.33 and 20 percent of generator rated load per minute. Assuming a 25MW generator; this allows us an 825KW minimum and a 5MW maximum. Given that ramp rate directly affects number of cycles and equipment wear a minimum ramp rate is suggested. At a rate of 0.825 MW per minute this would allow us to reach full load in 30 minutes.

Peak Capacity: 50 MW 25% over Committed Capacity

Minimum Power Level:

With the closed loop system, minimum 5 day supply of Bagasse.
5 Boiler System with 1 spare. Minimum power 40MW.

Facility Turnaround time (Hot to Hot) in Hours:

Due to the unique features of Vision's gasification process, Hot to Hot Turnaround is two (2) hours or less, including ramp time.

Start-Up Time from Cold Shutdown in Hours:

7 hours, including ramp time.

Unit Cycling (#cycles/yr): (6)(unit)

This plant will be a low cycle design with an estimated accumulative downtime for hot, warm, and cold cycles not to exceed 100 hrs/yr, (unit) for the first 5 to 7 years. All cycling will be staggered to insure at least one 25MW unit online at all times. After the first 5 to 7 year period of operation and considering normal operating hours, a 10-15% increase of cycles can be expected. Given normal operating conditions it is estimated that we will incur (6) cycles per year (Hot, Warm, and Cold combined) that will not exceed 100 hours total.

MW and MVAR Control:

Our control system is an automatic control scheme using a series of Basler relays (BE1-1051, BE1-GPS-100, DECS-300-N) Honeywell HC 900, and Wonderware HMI. Our system allows real time control of MW, MVARs, and Breaker control and protection schemes as required.

APPENDIX C V SITING AND LICENSING

Zoning Ethanol / Power Plant	2-3 months
Construction Permit	2-3 months
Emissions Permit	6-8 months
Water Use	38,000 Gallons Per Hou
Process Wastewater Discharge	Field Applied
Wetlands	n/a
Endangered Species	n/a
Protected Properties	n/a
Surrounding Land Use	28,000 Acres Agricultur
Facility is Supported	

EMISSIONS

Pollutant	Tons Per Year
PM10	28.58
SO2	28.62
Nox	153.73
CO	132.44
TOC	92.24
VOC	40.21

Effluent – Field Applied

APPENDIX C VI FACILITY DEVELOPMENT AND PERFORMANCE

ENGINEERING

Principally complete, power plant by Vision, ethanol by Tomsa Destil.

PROCUREMENT

Site acquisition:

Within 30 days of signed and approved contract.

Equipment:

Within 15 days of signed and approved contract.

Engineering:

Vision and Tomsa Destil.

Operator:

Vision

CONSTRUCTION

16 to 18 months after signed and approved contract.

START-UP AND COMERCIAL OPERATION

Included in total construction time-frame.

EQUIPMENT

Ethanol plant equipment provided by Tomsa Destil.

Power Plant

Gasifier and fuel handling by Vision.

Boilers by Rentech

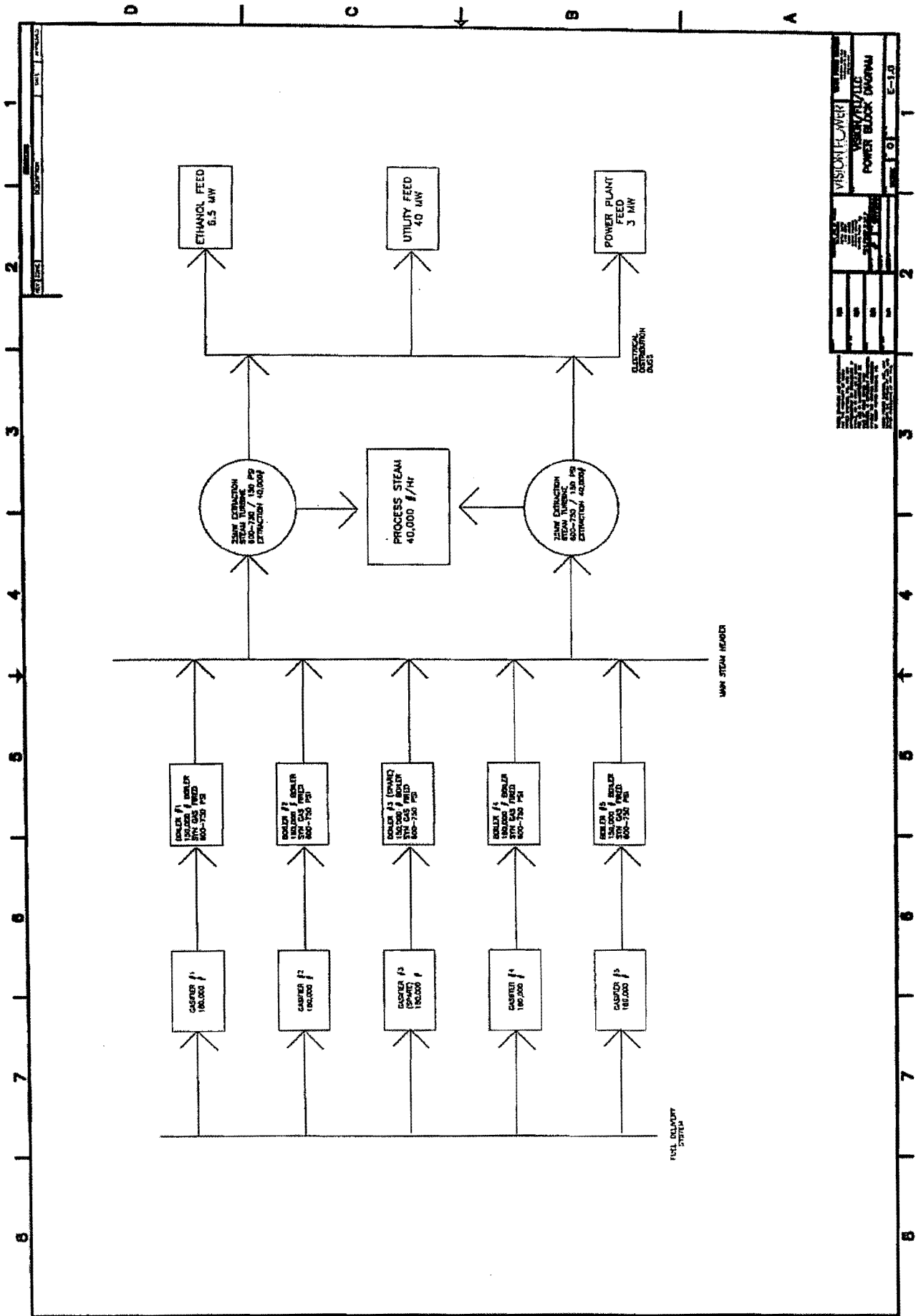
Turbines by Dresser-Rand.

ENVIRONMENT CONTROL TECHNOLOGY

CO² from Ethanol Plant captured by CO² Plant, Baghouse installed for boilers.

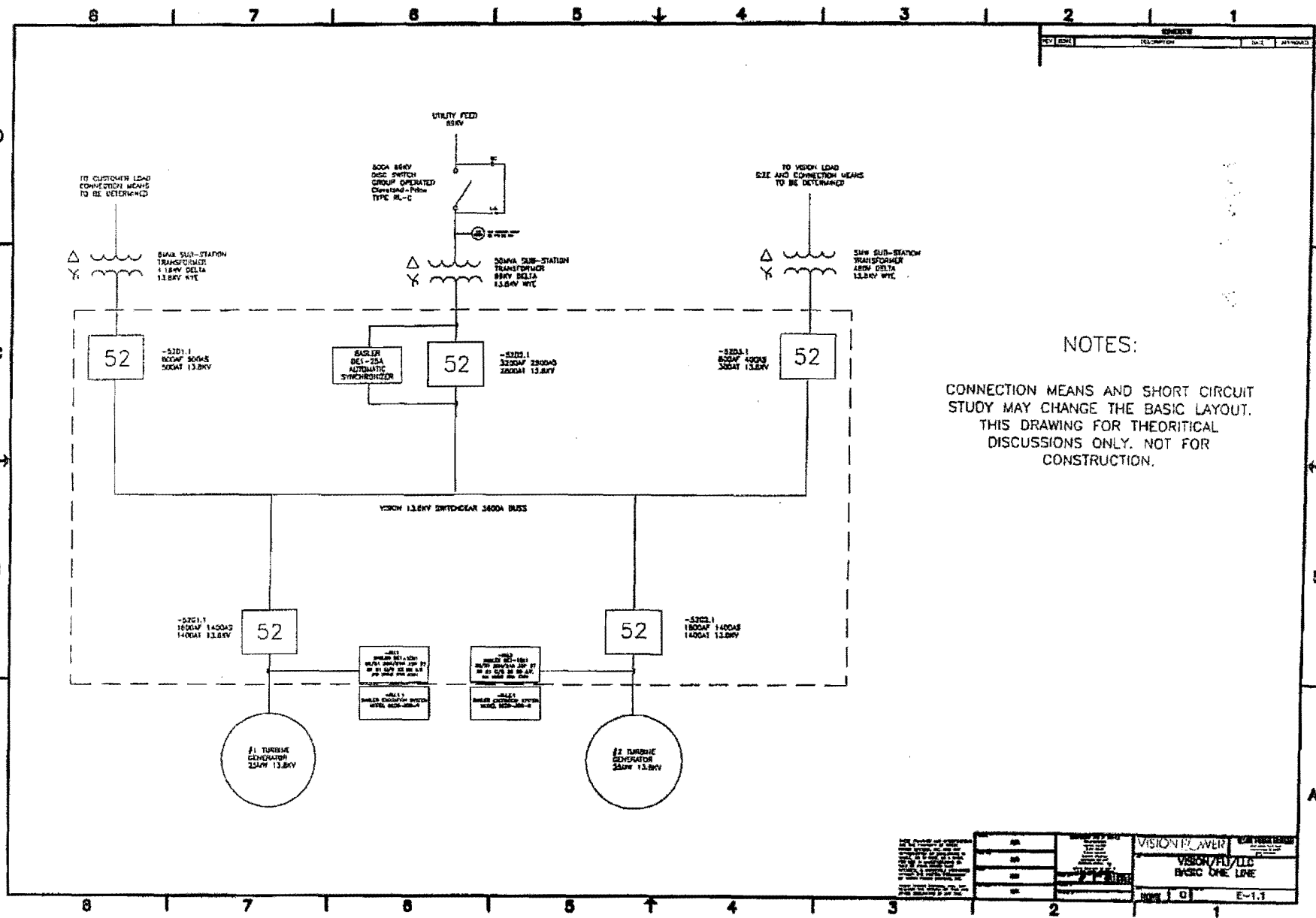
EXPECTED HEAT RATE

11,113 BTUs/kWh



VISION PLANNER	
NO.	DESCRIPTION
1	...
2	...
3	...
4	...
5	...
6	...
7	...
8	...

VISION PLANNER
 VISION PLANNER
 POWER BLOCK DIAGRAM
 E-11.0



NOTES:

CONNECTION MEANS AND SHORT CIRCUIT STUDY MAY CHANGE THE BASIC LAYOUT. THIS DRAWING FOR THEORETICAL DISCUSSIONS ONLY. NOT FOR CONSTRUCTION.

REVISIONS NO. DATE BY 1 10/1/81 JLD	VISION PLANT VISION/FU/LLC BASIC ONE LINE SHEET 1 OF 1 E-1.1
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APPENDIX C VII FINANCIAL

Permanent Financing Term	10 Year
Project Capital Structure (percentage of long-term debt, subordinated debt, tax Exempt debt and equity)	100% long term debt
Financing Costs (costs of long-term debt subordinated debt, tax exempt debt and equity)	2 % Closing Costs 7 % Interest
Annual Interest Expense	varies – see attached 10 year analysis
Annual Debt Service (\$)	\$18,949,152
Amortization Schedule (beginning balance, interest expense, principal reduction, ending balance)	See attached 10 year analysis
On Commercial Operation, the financing is non-recourse.	

**Progressive Energy Florida
Standard Offer Payment Structure
(\$)**

**Gas Component of Standard Offer ⁽¹⁾
at .007134 MMBtu/kWh**

NYMEX Cost per MMBtu	Basis & LDC Cost ⁽²⁾	Total Cost	Price /kWh	Capacity ⁽³⁾ and O&M	Total Per kWh Paid
7.00	1.35	8.35	0.0596	0.0125	0.0721
8.00	1.35	9.35	0.0667	0.0125	0.0792
9.00	1.35	10.35	0.0738	0.0125	0.0863
10.00	1.35	11.35	0.0810	0.0125	0.0935
11.00	1.35	12.35	0.0881	0.0125	0.1006
12.00	1.35	13.35	0.0952	0.0125	0.1077
13.00	1.35	14.35	0.1024	0.0125	0.1149
14.00	1.35	15.35	0.1095	0.0125	0.1220
15.00	1.35	16.35	0.1166	0.0125	0.1291

(1) Sheet No. 9.415 of SO avoided heat rate 7,134 Btus/kWh

(2) Sheet No. 9.457 of SO

(3) Sheet No 9.415 of SO avoided unit variable O&M \$.00203/kWh plus Sheet No. 9.455 Table 3

Option D \$7.33/kW/M

40,000 kW x \$7.33 = \$293,200 x 12 M = \$3,518,400/Y ÷ 336,000,000 kWhY =

\$.01047/kWh + \$.00203 = \$.0125/kWh

Worst Case Pricing Scenarios (000)

	Current Market 7/11/08		Crude @ \$100		Crude @ \$90		Crude @ \$80	
	Crude @ \$145		Gas @ \$9.00		Gas @ \$8		Gas @ \$7	
	Gas @ \$12.14							
20 MM G Ethanol @ \$ 3.05	\$ 61,000	@ \$2.25	\$ 45,000	@ \$ 2.00	\$ 40,000	@ \$ 1.75	\$ 35,000	
336 MM kWh @ \$ 0.10770	36,187	@ \$0.0863	\$ 28,997	@ \$ 0.0792	26,611	@ \$ 0.0721	24,226	
Revenue	<u>\$ 97,187</u>		<u>\$ 73,997</u>		<u>\$ 66,611</u>		<u>\$ 59,226</u>	
Cost of Sales	<u>29,200</u>		<u>29,200</u>		<u>29,200</u>		<u>29,200</u>	
Gross Profit	<u>\$ 67,987</u>		<u>\$ 44,797</u>		<u>\$ 37,411</u>		<u>\$ 30,026</u>	
Interest	10,440		10,440		10,440		10,440	
Depreciation	<u>13,000</u>		<u>13,000</u>		<u>13,000</u>		<u>13,000</u>	
Income Before Taxes	<u>\$ 44,547</u>		<u>\$ 21,357</u>		<u>\$ 13,971</u>		<u>\$ 6,586</u>	
Taxes	<u>9,023</u>		<u>957</u>		<u>-</u>		<u>-</u>	
Net Income	<u>\$ 35,524</u>		<u>\$ 20,400</u>		<u>\$ 13,971</u>		<u>\$ 6,586</u>	
Net Cash Flow	<u>\$ 37,364</u>		<u>\$ 22,240</u>		<u>\$ 15,811</u>		<u>\$ 8,426</u>	

Proforma Income & Cash Flow
(000)

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
20 MM G Ethanol ⁽¹⁾	\$ 50,000	\$ 52,500	\$ 55,125	\$ 57,881	\$ 60,775	\$ 63,814	\$ 67,005	\$ 70,355	\$ 73,873	\$ 76,089
336 MM kWh ⁽²⁾	31,416	32,987	34,636	36,368	38,186	40,096	42,100	44,205	46,416	48,737
Revenue	\$ 81,416	\$ 85,487	\$ 89,761	\$ 94,249	\$ 98,961	\$ 103,910	\$ 109,105	\$ 114,560	\$ 120,289	\$ 124,826
Cost of Sales ⁽³⁾	29,200	30,076	30,978	31,908	32,865	33,851	34,866	35,912	36,990	38,099
Gross Profit	\$ 52,216	\$ 55,411	\$ 58,783	\$ 62,341	\$ 66,096	\$ 70,059	\$ 74,239	\$ 78,648	\$ 83,299	\$ 86,726
Interest	10,440	9,820	8,735	7,960	6,875	5,945	4,705	3,465	2,225	830
Depreciation	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000	13,000
Income Before Taxes	\$ 28,776	\$ 32,591	\$ 37,048	\$ 41,381	\$ 46,221	\$ 51,114	\$ 56,534	\$ 62,183	\$ 68,074	\$ 72,896
Taxes	3,232	539	3,763	6,338	7,818	9,301	10,981	13,531	20,119	21,559
Net Income	\$ 25,544	\$ 32,052	\$ 33,285	\$ 35,043	\$ 38,403	\$ 41,813	\$ 45,553	\$ 48,652	\$ 47,955	\$ 51,337
Net Cash Flow	\$ 27,385	\$ 33,272	\$ 33,420	\$ 34,403	\$ 36,678	\$ 39,150	\$ 41,658	\$ 43,467	\$ 41,580	\$ 43,567

- (1) \$2.50 per gallon inflated at 5%
(2) Natural gas at \$10.00, kWh at \$.0935 inflated at 5%
(3) 3% inflation

APPENDIX D
TO
PROGRESS ENERGY FLORIDA
RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW
NEGOTIATED CONTRACT
RATE SCHEDULE COG-2

Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Negotiated Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Producer or a Qualifying Facility less than 100 kW.

SCHEDULE

COG-2, Firm Capacity and Energy from a Renewable Facility (“RF/QF”) or a Qualifying Facility less than 100 kW (“QF”)

AVAILABLE

PEF will, under the provisions of this schedule and the Contract to which this Appendix is attached and incorporated into by reference, purchase firm capacity and energy offered by a RF/QF as defined in the contract. ~~PEF’s obligation to contract to purchase firm capacity from such RF/QF by means of this schedule and the Contract will continue no later than the Expiration Date.~~

APPLICABLE

To RF/QFs as defined in the Contract producing capacity and energy for sale to PEF on a firm basis pursuant to the terms and conditions of this schedule and the Contract. “Firm Capacity and Energy” are described by FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by a RF/QF pursuant to the Contract provisions addressing (among other things) quantity, time and reliability of delivery.

CHARACTER OF SERVICE

Purchases within the territory served by PEF shall be, at the option of PEF, single or three phase, 60-hertz alternating current at any available standard PEF voltage. Purchases from outside the territory served by PEF shall be three phase, 60-hertz alternating current at the voltage level available at the interchange point between PEF and the entry delivering the Firm Capacity and Energy from the RF/QF.

LIMITATION

Purchases under this schedule are subject to FPSC Rules 25-17.080 through 25-17.310, F.A.C., and are limited to those RF/QFs which:

- A. Are defined in the Contract;
- B. Execute a Contract;

RATES FOR PURCHASES BY PEF

Firm Capacity and Energy are purchased at unit cost, in dollars per kilowatt per month and cents per kilowatt-hour, respectively, based on the value of deferring additional capacity required by PEF. For the purpose of this schedule, an Avoided Unit has been designated by PEF. PEF's next Avoided Unit has been identified in Section 4 of the Contract. Schedule 1 to this Appendix describes the methodology used to calculate payment schedules, general terms, and conditions applicable to the Contract filed and approved pursuant to FPSC Rules 25-17.080 through 25-17.310, F.A.C.

A. Firm Capacity Rates

Four options, A through D, as set forth below, are available for payments of firm capacity that is produced by a RF/QF and delivered to PEF. Once selected, an option shall remain in effect for the term of the Contract. ~~Exemplary payment schedules, shown below, contain the monthly rate per kilowatt of firm Capacity which the RF/QF has contractually committed to deliver to PEF and are based on a contract term which extends through the Termination Date in Section 4 of the Contract. Payment schedules for other contract terms will be made available to any RF/QF upon request and may be calculated based on the methodologies described in Schedule 1. The currently approved parameters used to calculate the following schedule of payments are found in Schedule 2 to this Appendix.~~

Option A - Fixed Value of Deferral Payments - Normal Capacity

Payment schedules under this option are based on the value of a year-by-year deferral of PEF's Avoided Unit with an in-service date as of the Avoided Unit In-Service Date in Section 4 of the Contract, calculated in accordance with FPSC Rule 25-17.0832, F.A.C., as described in Schedule 1. Once this option is selected, the current schedule of payments shall remain fixed and in effect throughout the term of the Contract. The payment schedule for this option follows in Table 3.

Option B - Fixed Value of Deferral Payments - Early Capacity

Payment schedules under this option are based upon the early capital cost component of the value of a year-by-year deferral of the Avoided Unit. The term “early” with respect to Option B means that these payments can start prior to the anticipated in-service date of the Avoided Unit; provided, however, that under no circumstances may payments begin before this RF/QF is delivering Firm Capacity and Energy to PEF pursuant to the terms of the Contract. When this option is selected, the Capacity Payments shall be made monthly commencing no earlier than the Capacity Delivery Date of the RF/QF and calculated as shown on Schedule 1. Capacity Payments under Option B do not result in a prepayment or create a future benefit.

The RF/QF shall select the month and year in which the deliveries of firm capacity and energy to PEF are to commence and Capacity Payments are to start. PEF will provide the RF/QF with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Contract. ~~The exemplary payment schedule in Table 3 is based on a contract term that begins on the Exemplary Early Capacity Payment Date in Section 4 of the Contract.~~

Option C - Fixed Value of Deferral Payment - Levelized Capacity

Payment schedules under this option are based upon the levelized capital cost component of the value of a year-by-year deferral of the Avoided Unit. The capital portion of Capacity Payments under this option shall consist of equal monthly payments over the term of the Contract, calculated as shown on Schedule 1. The fixed operation and maintenance portion of Capacity Payments shall be equal to the value of the year-by-year deferral of fixed operation and maintenance expense associated with the Avoided Unit. These calculations are shown in Schedule 1. The payment schedule for this option is contained in Table 3. Capacity Payments under Option C do not result in a prepayment or create a future benefit.

Option D - Fixed Value of Deferral Payment - Early Levelized Capacity

Payment schedules under this option are based upon the early levelized capital cost component of the value of a year-by-year deferral of the Avoided Unit. The capital portion of Capacity Payments under this option shall consist of equal monthly payments over the term of the Contract, calculated as shown on Schedule 1. The fixed operation and maintenance expense shall be calculated as shown in Schedule 1.

The RF/QF shall select the month and year in which the deliveries of firm capacity and energy to PEF are to commence and Capacity Payments are to start. PEF will provide the RF/QF with a schedule of capacity payment rates based on the month and year in which the deliveries of firm capacity and energy are to commence and the term of the Contract. ~~The exemplary payment schedule in Table 3 is based on a contract term that begins on the Exemplary Early Capacity Payment Date in Section 4 of the Contract.~~

TABLE 3
MONTHLY CAPACITY PAYMENT IN \$kW/MONTH
PEF'S June 1, 2013 Suwannee River Plant 4-on-1 CC
Renewable or Qualifying Facility Negotiated Contract Avoided Capacity Payments

(\$/kW/MONTH)

Contract Year	<u>Option B</u> Early Capacity Payment Starting on the Capacity Payment Date
2009	
2010	
2011	
2012	
2013	
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
<u>2035</u>	

B. Energy Rates

Payments Prior to the Avoided Unit In-Service Date

1. ~~The energy rate, in cents per kilowatt-hour (¢/kWh), shall be based on PEF's actual hourly avoided energy costs which are calculated by PEF in accordance with FPSC Rule 25-17.0825, F.A.C.~~

~~The calculation of payments to the RF/QF shall be based on the sum over all hours of the billing period, of the product of each hour's avoided energy cost times the amount of energy (kWh) delivered to PEF from the Facility for that hour. All purchases shall be adjusted for losses from the point of metering to the point of interconnection.~~

2. ~~Upon request of the RF/QF, PEF shall provide the RF/QF the option of receiving energy payments based on PEF's year-by-year projection of system incremental costs prior to hourly economy energy sales to other utilities, based on normal weather and fuel conditions plus a mutually agreed upon market volatility risk premium. If this option is chosen, such payments will be calculated on an annual basis and the first year's estimated payment schedule shall be attached to this Contract in Appendix E.~~

Payments Starting on Avoided Unit In-Service Date

~~The calculation of payments to the RF/QF for energy delivered to PEF on and after the Avoided Unit In-Service Date shall be the sum, over all hours of the Monthly Billing Period, of the product of (a) each hour's Firm Energy Rate (¢/kWh) [REDACTED] and (b) the amount of energy (kWh/MWh) delivered to PEF from the Facility during that hour.~~

~~The Firm Energy Rate shall be, on an hour-by-hour basis, PEF's Avoided Unit Energy Cost. For any period during which energy is delivered by the RF/QF to PEF, the Firm Energy Rate in cents per kilowatt hour (¢/kWh) shall be the following on an hour-by-hour basis: the lesser of (a) the As Available Energy Rate and (b) the Avoided Unit Energy Cost. The Avoided Unit Energy Cost, in cents per kilowatt hour (¢/kWh) shall be defined as the product of (a) the Avoided Unit Fuel Cost and (b) the Avoided Unit Heat Rate; plus (c) the Avoided Unit Variable O&M.~~

~~For the purposes of this agreement, the Avoided Unit Fuel Cost shall be determined from gas prices published in Platts Inside FERC, Gas Market Report, first of the month posting for Florida Gas Transmission ("FGT") Zone 3, plus other charges that FGT may apply. An estimated and indicative rate range of such other charges (as provided by FGT and expressed as a 100% LF Rate (includes a Reservation Charge and a basic Usage Charge)) is \$1.35/MMBtu up to \$1.50/MMBtu. This estimated and indicative recourse rate range is subject to change. The stated estimated and indicative recourse rate range does not include FGT's Fuel Reimbursement Charge ("Fuel") which is estimated to be approximately 3.36% based upon the historical calendar 2007 average. The estimated and indicative recourse rate does not include any surcharges (i.e. ACA - \$.0016/MMBtu or UFS or any other unspecified future surcharges). FGT's Surcharges and Fuel percentages are collected in accordance with the terms and conditions of FGT's FERC approved tariff, in effect from time to time for service under FGT's proposed Rate Schedule FTS-3 which, at this time, has not been filed with or approved by the FERC.~~

~~The Parties may mutually agree to fix a portion of the base energy payments associated with the Avoided Unit and amortize that fixed portion, on a present value basis, over the term of the Contract. Such fixed energy payments may, at the option of the RF/QF, start as early as the Avoided Unit In-Service Date. For purposes of this paragraph, "base energy payments associated with the Avoided Unit" means the energy costs of the Avoided Unit to the extent that the Avoided Unit would have been operated. If this option is mutually agreed upon, it will be attached to this Contract in Appendix E.~~

ESTIMATED AS-AVAILABLE ENERGY COST

For informational purposes only, the estimated incremental avoided energy costs for the next four semi-annual periods are as follows. The following estimates include variable operation and maintenance expenses.

<u>Applicable Period</u>	<u>Average ¢/KWH</u>
April 1, 2008 - September 30, 2008	7.1
October 1, 2008 – March 31, 2009	6.7
April 1, 2009 – September 30, 2009	7.2
October 1, 2009 – March 31, 2010	6.7

ESTIMATED UNIT FUEL COST

The estimated unit fuel costs listed below are associated with the Avoided Unit and are based on current estimates of the price of natural gas.

\$/MMBTU

<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
10.39	10.07	8.89	8.58	8.28	8.29	8.51	8.75	9.01

DELIVERY VOLTAGE ADJUSTMENT

PEF's average system line losses are analyzed annually for the prior calendar year, and delivery efficiencies are developed for the transmission, distribution primary, and distribution secondary voltage levels. This analysis is provided in the PEF's semi-annual fuel cost recovery filing with the FPSC in Exhibit Schedule E1. An adjustment factor, calculated as the reciprocal of the appropriate delivery efficiency factor, is applicable to the above determined energy costs if the RF/QF is within PEF's service territory to reflect the delivery voltage level at which RF/QF energy is received by the PEF.

The current delivery voltage adjustment factors are:

<u>Delivery Voltage</u>	<u>Adjustment Factor</u>
Transmission Voltage Delivery	1.0212
Primary Voltage Delivery	1.0331
Secondary Voltage Delivery	1.0682

PERFORMANCE CRITERIA

Payments for firm Capacity are conditioned on the RF/QF's ability to maintain the following performance criteria:

A. Capacity Delivery Date

The Capacity Delivery Date shall be no later than the Avoided Unit In-Service Date.

B. Availability and Capacity Factor

The Facility's availability and capacity factor are used in the determination of firm Capacity Payments through a performance based calculation as detailed in Appendix A to the Contract.

METERING REQUIREMENTS

The RF/QFs within the territory served by PEF shall be required to purchase from PEF hourly recording meters to measure their energy deliveries to PEF. Energy purchases from the RF/QFs outside the territory of PEF shall be measured as the quantities scheduled for interchange to PEF by the entity delivering Firm Capacity and Energy to PEF.

For the purpose of this Contract, the on-peak hours shall be those hours occurring April 1 through October 31, from 11:00 a.m. to 10:00 p.m., and November 1 through March 31, from 6:00 a.m. to 12:00 noon and 5:00 p.m. to 10:00 p.m. prevailing Eastern time. PEF shall have the right to change such On-Peak Hours by providing the RF/QF a minimum of thirty calendar days' advance written notice.

BILLING OPTIONS

A RF/QF, upon entering into this Contract for the sale of firm capacity and energy or prior to delivery of as-available energy, may elect to make either simultaneous purchases from and sales to PEF, or net sales to PEF; provided, however, that no such arrangement shall cause the RF/QF to sell more than the Facility's net output. A decision on billing methods may only be changed: 1) when a RF/QF selling as-available energy enters into this Contract for the sale of firm capacity and energy; 2) when a Contract expires or is lawfully terminated by either the RF/QF or PEF; 3) when the RF/QF is selling as-available energy and has not changed billing methods within the last twelve months; 4) when the election to change billing methods will not contravene the provisions of FPSC Rule 25-17.0832 or a contract between the RF/QF and PEF.

If a RF/QF elects to change billing methods, such changes shall be subject to the following: 1) upon at least thirty days advance written note to PEF; 2) the installation by PEF of any additional metering equipment reasonably required to effect the change in billing and upon payment by the RF/QF for such metering equipment and its installation; and 3) upon completion and approval by PEF of any alteration(s) to the interconnection reasonably required to effect the change in billing and upon payment by the RF/QF for such alteration(s).

Payments due a RF/QF will be made monthly and normally by the twentieth business day following the end of the billing period. The kilowatt-hours sold by the RF/QF and the applicable avoided energy rates at which payment are being made shall accompany the payment to the RF/QF.

CHARGES TO RENEWABLE ENERGY PROVIDER

The RF/QF shall be responsible for all applicable charges as currently approved or as they may be approved by the Florida Public Service Commission, including, but not limited to:

A. Retail Service Charges

The RF/QF shall be responsible for all FPSC approved charges for any retail service that may be provided by PEF. The RF/QF shall be billed \$74.42 monthly for the costs of meter reading, billing, and other administrative costs.

B. Interconnection Charges

See Section 6.4 for interconnection charges.

TERMS OF SERVICE

- A. It shall be the RF/QF's responsibility to inform PEF of any change in its electric generation capability.
- B. Any electric service delivered by PEF to a RF/QF located in PEF's service area shall be subject to the following terms and conditions:
 - (1) A RF/QF shall be metered separately and billed under the applicable retail rate schedule(s), whose terms and conditions shall pertain.
 - (2) A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.097, F.A.C., and the following:
 - (i) In the first year of operation, the security deposit should be based upon the singular month in which the RF/QF's projected purchases from PEF exceed, by the greatest amount, PEF's estimated purchases from the RF/QF. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit is required upon interconnection.
 - (ii) For each year thereafter, a review of the actual sales and purchases between the RF/QF and PEF will be conducted to determine the actual month of maximum difference. The security deposit should be adjusted to equal twice the greatest amount by which the actual monthly purchases by the RF/QF exceed the actual sales in PEF in that month.
 - (3) PEF shall specify the point of interconnection and voltage level.
 - (4) The RF/QF must enter into an interconnection to PEF's system. Specific features of the RF/QF and its interconnection to PEF's facilities will be considered by PEF in preparing the interconnection agreement.
- C. Service under this rate schedule is subject to the rules and regulations of the FPSC.

**SCHEDULE 1
TO RATE SCHEDULE COG-2**

CALCULATION OF VALUE OF DEFERRAL PAYMENTS

APPLICABILITY

This Schedule 1 provides a detailed description of the methodology used by PEF to calculate the monthly values of deferring or avoiding the Avoided Unit identified in the Contract. When used in conjunction with the current FPSC-approved cost parameters associated with the Avoided Unit contained in Schedule 2, a RF/QF may determine the applicable value of deferral capacity payment rate associated with the timing and operation of its particular facility should the RF/QF enter into a Contract with PEF.

Also contained in this Schedule 1 is the discussion of the types and forms of surety bond requirements or equivalent assurance for payment of the Termination Fee acceptable to PEF in the event of contractual default by a RF/QF.

CALCULATION OF VALUE OF DEFERRAL OPTION A

FPSC Rule 25-17.0832(5) specifies that avoided capacity costs, in dollars per kilowatt per month, associated with capacity sold to a utility by a RF/QF pursuant to Contract shall be defined as the year-by-year value of deferral of the Avoided Unit. The year-by-year value of deferral shall be the difference in revenue requirements associated with deferring the Avoided Unit one year, and shall be calculated as follows:

$$VAC_m = 1/12 [KI_n (1 - R) / (1 - R^L) + O_n]$$

Where, for a one year deferral:

- VAC_m = utility's monthly value of avoided capacity, in dollars per kilowatt per month, for each month of year n;
- K = present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;
- R = $(1 + i_p) / (1 + r)$;
- I_n = total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Avoided Unit with an in-service date of year n, including all identifiable and quantifiable costs relating to the construction for the Avoided Unit which would have been paid had the Avoided Unit been constructed;

- O_n = total fixed operation and maintenance expense for the year n, in mid-year dollars per kilowatt per year, of the Avoided Unit;
- i_p = annual escalation rate associated with the plant cost of the Avoided Unit;
- i_o = annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;
- r = annual discount rate, defined as the utility's incremental after-tax cost of capital;
- L = expected life of the Avoided Unit; and
- n = year for which the Avoided Unit is deferred starting with the Avoided Unit In-Service Date and ending with the Termination Date.

CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS - EARLY CAPACITY-OPTION B

Under the fixed value of deferral Option A, payments for firm capacity shall not commence until the in-service date of the Avoided unit(s). At the option of the RF/QF, however, PEF may begin making payments for capacity consisting of the capital cost component of the value of a year-by-year deferral of the Avoided Unit prior to the anticipated in-service date of the Avoided Unit. When such payments for capacity are elected, the avoided capital cost component of Capacity Payments shall be paid monthly commencing no earlier than the Capacity Delivery Date of the RF/QF, and shall be calculated as follows:

$$A_M = [A_c (1 + i_p)^{(m-1)} + A_o (1 + i_o)^{(m-1)}] / 12 \quad \text{for } m = 1 \text{ to } t$$

Where:

- A_M = monthly payments to be made to the RF/QF for each month of the contract year n, in dollars per kilowatt per month in which RF/QF delivers capacity pursuant to the early capacity option;
- i_p = annual escalation rate associated with the plant cost of the Avoided Unit;
- i_o = annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;

- m = year for which the fixed value of deferral payments under the early capacity option are made to a RF/QF, starting in year one and ending in the year t;
- t = the Term, in years, of the Contract:
- $A_c = F [(1 - R) / (1 - R^t)]$

Where:

- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of Capacity Payments which would have been made had Capacity Payments commenced with the Avoided Unit In-Service Date;
- $R = (1 + i_p) / (1 + r)$
- r = annual discount rate, defined as PEF's incremental after-tax cost of capital; and
- $A_o = G [(1 - R) / (1 - R^t)]$

Where:

- G = The cumulative present value, in the year that the contractual payments will begin, of the avoided fixed operation and maintenance expense component of Capacity Payments which would have been made had Capacity Payments commenced with the Avoided Unit In-Service Date.
- $R = (1 + i_o) / (1 + r)$

The currently approved parameters applicable to the formulas above are found in Schedule 2.

CALCULATION OF FIXED VALUE OF DEFERRAL PAYMENTS - LEVELIZED AND EARLY LEVELIZED CAPACITY - OPTION C & OPTION D, RESPECTIVELY

Monthly fixed value of deferral payments for levelized and early levelized capacity shall be calculated as follows:

$$P_L = (F / 12) \cdot [r / 1 - (1 + r)^{-t}] + O$$

Where:

- P_L = the monthly levelized capacity payment, starting on or prior to the in-service date of PEF's Avoided Unit(s);
- F = the cumulative present value, in the year that the contractual payments will begin, of the avoided capital cost component of the Capacity Payments which would have been made had the Capacity Payments not been levelized;
- r = the annual discount rate, defined as PEF's incremental after-tax cost of capital;
- t = the Term, in years of the Contract
- O = the monthly fixed operation and maintenance component of the Capacity Payments, calculated in accordance with calculation of the fixed value of deferral payments for the levelized capacity or the early levelized capacity options.

RISK-RELATED GUARANTEES

With the exception of governmental solid waste facilities covered by FPSC Rule 25-17.091, FPSC Rule 25-17.0832 (4)(e)10 requires that, when fixed value of deferral payments - early capacity, levelized capacity, or early levelized capacity are elected, the RF/QF must provide a surety bond or equivalent assurance of securing the payment of a Termination Fee in the event the RF/QF is unable to meet the terms and conditions of its Contract. Depending on the nature of the RF/QF's operation, financial health and solvency, and its ability to meet the terms and conditions of the Contract, one of the following may constitute an equivalent assurance of payment:

- (1) Bond;
- (2) Cash deposit(s) with PEF;
- (3) Unconditional, irrevocable, direct pay Letter of Credit;
- (4) Unsecured promise by a municipal, county or state government to repay payments for early or levelized capacity in the event of default, in conjunction with a legally binding commitment from such government allowing the utility to levy a surcharge on either the electric bills of the government's electricity consuming facilities or the constituent electric customers of such government to assure that payments for early or levelized capacity are repaid;
- (5) Unsecured promise by a privately-owned RF/QF to repay payments for early or levelized capacity in the event of default, in conjunction with a legally binding commitment from the owner(s) of the RF/QF, parent company, and/or subsidiary companies located in Florida to assure that payments for early, levelized or early levelized capacity are repaid; or
- (6) Other guarantees acceptable to PEF.

PEF will cooperate with each RF/QF applying for fixed value of deferral payments under the early, levelized or early levelized capacity options to determine the exact form of an "equivalent assurance" for payment of the Termination Fee to be required based on the particular aspects of the RF/QF. PEF will endeavor to accommodate an equivalent assurance of repayment which is in the best interests of both the RF/QF and PEF's ratepayers.

**SCHEDULE 2
TO RATE SCHEDULE COG-2CAPACITY OPTION PARAMETERS**

**FIXED VALUE OF DEFERRAL PAYMENTS -
NORMAL CAPACITY OPTION PARAMETERS**

Where, for one year deferral:

		<u>Value</u>
VAC_m	= PEF's value of avoided capacity and O&M, in dollars per kilowatt per month, during month m;	\$10.69
K	= present value of carrying charges for one dollar of investment over L years with carrying charges computed using average annual rate base and assumed to be paid at the middle of each year and present valued to the middle of the first year;	1.462
I_n	= total direct and indirect cost, in mid-year dollars per kilowatt including AFUDC but excluding CWIP, of the Avoided Unit with an in-service date of year n;	\$1,307.68
O_n	= total fixed operation and maintenance expense, for the year n, in mid-year dollars per kilowatt per year, of the Avoided Unit;	\$7.14
i_p	= annual escalation rate associated with the plant cost of the Avoided Unit;	4.00%
i_o	= annual escalation rate associated with the operation and maintenance expense of the Avoided Unit;	2.25%
r	= annual discount rate, defined as PEF's incremental after-tax cost of capital;	8.48%
L	= expected life of the Avoided Unit;	25
n	= year for which the Avoided Unit is deferred starting with the Avoided Unit In-Service Date and ending with the Termination Date.	2013

**FIXED VALUE OF DEFERRAL PAYMENTS -
EARLY CAPACITY OPTION PARAMETERS**

A_m	=	monthly avoided capital cost component of Capacity Payments to be made to the RF/QF starting as early as five years prior to the Avoided Unit In-Service Date, in dollars per kilowatt per month;	\$5.97
i_p	=	annual escalation rate associated with the plant cost of the Avoided Unit;	4.00%
n	=	year for which early Capacity Payments to a RF/QF are to begin;	2009
F	=	the cumulative present value of the avoided capital cost component of Capacity Payments which would have been made had Capacity Payments commenced with the anticipated in-service date of the Avoided Unit and continued for a period of 10 years;	\$672.20
r	=	annual discount rate, defined as PEF's incremental after-tax cost of capital;	8.48%
t	=	the Term, in years, of the Contract for the purchase of firm capacity commencing prior to the in-service date of the Avoided Unit;	14
G	=	the cumulative present value of the avoided fixed operation and maintenance expense component of Capacity Payments which would have been made had Capacity Payments commenced with the anticipated in-service date of the Avoided Unit and continued until the Termination Date.	\$36.95

APPENDIX E

TO

PROGRESS ENERGY FLORIDA

RENEWABLE OR QUALIFYING FACILITY LESS THAN 100 KW

NEGOTIATED CONTRACT

AGREED UPON PAYMENT SCHEDULES

AND OTHER MUTUAL AGREEMENTS

APPENDIX FE
FPSC RULES 25-17.080 THROUGH 25-17.310

AMENDED CONTRACT SUMMARY & SUMMARY OF CHANGES

(portions **REDACTED**)

Vision Power Systems

Contract Summary

Utility Signatory	Progress Energy Florida Jeffrey J. Lyash
Owner and Operator of the QF Signatory	Vision / FL I LLC Russell W. Spitz
Committed Capacity	40 MW
Facility Type	Steam Boiler
Fuel	Gasified Sweet Sorghum bagasse
Location	To Be Determined
Transmission Requirements	To Be Determined
Expected Total Annual Energy	311,853 MWh
Expected On-Peak Annual Energy	142,933 MWh
Expected Off-Peak Annual Energy	168,920 MWh
Avoided Unit	Suwannee Combined Cycle
Expected In-Service Date	January 1, 2011

Summary of Amendments of the Vision Power contract

a. Date Changes.

- i. The opening paragraph of the PPA on page 5 has been amended by redefining the Execution Date as the date that is amendment is approved by the Florida Public Service Commission.
- ii. Section 4 of the PPA has been amended by deleting the Expiration Date.
- iii. Section 4 of the PPA has been amended by specifying the Capacity Payments begin date as January 1, 2011.
- iv. Appendix D of the PPA has been amended by deleting the last sentence of the Available Section.
- v. Section 11.1 of the PPA has been amended by changing sixty (60) days in the first sentence to ninety (90) days.

b. Appendix Changes. Appendix E – Agreed Upon Payment Schedules of the PPA shall be deleted and Appendix F – FPSC Rules 25-17.080 through 25-17.310 has been renamed Appendix E – FPSC Rules 25-17.080 through 25-17.310 by making the following changes:

- i. Appendix E – Agreed Upon Payment Schedules and Appendix F – FPSC Rules 25-17.080 through 25-17.310 are deleted and Appendix E – FPSC Rules 25-17.080 through 25-17.310 has been added to the Table of Contents of page 1 of the PPA.
- ii. The last sentence of the opening paragraph on page 5 of the PPA has been restated as “This Contract contains four Appendices which are incorporated into and made part of this Contract: Appendix A: Monthly Capacity Payment Calculation; Appendix B: Termination Fee; Appendix C: Detailed Project Information; Appendix D: Rate Schedule COG-2; Appendix E: Florida Public Service Commission ("FPSC") Rules 25-17.080 through 25-17.310, F.A.C.”.
- iii. The definition of Appendix E in the PPA has been restated as “Appendix E” sets forth Florida Public Service Commission ("FPSC") Rules 25-17.080 through 25-17.310, F.A.C.
- iv. The definition of Appendix F in the PPA has been deleted.
- v. The first sentence of Section 12.1 has been restated to eliminate the reference to Appendix E as “In the event that the RF/QF receives Capacity Payments pursuant to Option B, Option C, or Option D of Appendix D, then upon the termination of this Contract, the RF/QF shall owe and be liable to PEF for the Termination Fee.”
- vi. Page 77 of the PPA has been amended to “APPENDIX E FPSC RULES 25-17.080 THROUGH 25-17.310 and page 78 of the PPA has been deleted.

c. Capacity Payment Changes. In recognition of the expected delay of the Capacity Payment Date to January 1, 2011, the Table 3 of the Rates for Purchases by PEF section of Appendix D in the PPA has been deleted and restated as:

(\$/kW/MONTH)

REDACTED

Contract Year	Option B
	Early Capacity Payment Starting on the Capacity Payment Date
2009	
2010	
2011	
2012	
2013	
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	

d. Energy Payment Changes.

Section B of the Rates for Purchases by PEF section of Appendix D in the PPA has been deleted and restated as "The calculation of payments to the RF/QF for energy delivered to PEF shall be the sum, over all hours of the Monthly Billing Period, of the product of (a) [REDACTED]/MWh; and (b) the amount of energy (MWh) delivered to PEF from the Facility during that hour."

e. Exemplary Capacity Payment Date. References to the Exemplary Capacity Payment Date no longer apply. Accordingly the following changes apply:

- i. The definition of Exemplary Capacity Payment Date has been deleted in Section 1 of the PPA.
- ii. Section 4 of the PPA has been amended by deleting the Exemplary Early Capacity Payment Date line in the table.

- iii. The second sentence of Section A. Firm Capacity Rates in the Rates for Purchases by PEF Section of Appendix D has been deleted.
- iv. The last sentence of Section B - Fixed Value of Deferral Payments - Early Capacity in the Rates for Purchases by PEF Section of Appendix D has been deleted.
- v. The last sentence of Section D - Fixed Value of Deferral Payment - Early Levelized Capacity in the Rates for Purchases by PEF Section of Appendix D has been deleted.

AMENDED CONTRACT FINANCIAL SUMMARY

REDACTED

(entire document)