

[SAMPLE]
POWER PURCHASE AGREEMENT
between

as Seller
and
CLECO POWER LLC
as Buyer

Dated _____, 2006

This draft is a sample only. If a bidder's proposal is acceptable, Cleco will tailor a contract the product(s) proposed to be sold under the resulting contract. Cleco's requirements for proposals are stated in the RFP.

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POWER PURCHASE AGREEMENT

This **POWER PURCHASE AGREEMENT** (this "Agreement"), dated _____, 2005, (the "Effective Date") is entered into by and between _____, a Delaware corporation as "Seller", and **CLECO POWER LLC**, a Louisiana limited liability company as "Buyer". (Seller and Buyer may hereinafter be referred to individually as a "Party" and collectively as the "Parties").

W I T N E S S E T H :

[Note: Recitals will be revised to fit individual procurements]

WHEREAS, Seller is engaged in the wholesale purchase and sale of electric capacity and energy; and is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC");

WHEREAS, Buyer is an electric public utility that operates and serves certain customers within the State of Louisiana; is subject to the jurisdictions of the Louisiana Public Service Commission ("LPSC") and the FERC; and provides electric service to its customers at rates filed with and authorized by the LPSC;

WHEREAS, Buyer owns and operates certain electrical generation facilities, transmission facilities, and distribution facilities, and is a party to certain contracts for the purchase, sale, or interchange of energy and capacity, all for purposes of providing electric service to its customers;

WHEREAS, Buyer wishes to acquire additional supplies of energy, as well as the right to identify additional capacity sources as "Network Resources" under Buyer's "Open Access Transmission Tariff"; and

WHEREAS, the Parties desire to enter into a transaction in which Seller sells and Buyer purchases capacity with respect to the Designated Unit, and energy, as delivered from the Designated Unit or Other Source Energy, all on terms and conditions as set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

**ARTICLE 1
DEFINITIONS**

1.1 Defined Terms

Unless otherwise defined herein or in any Exhibit, Schedule or Appendix hereto, the following terms, when used herein or in any Exhibit, Schedule or Appendix hereto shall have the meanings set forth below.

“Agreement” means this Power Purchase Agreement.

“Approvals” means all approvals, permits, licenses, consents, waivers or other authorizations from, notifications to, or filings or registrations with, third parties, including without limitation, Governmental Approvals.

“Availability Notice” means notice of the available capacity and energy provided in the form set forth in Schedule 4.2(b) delivered to Buyer by Seller.

“Bankrupt” means with respect to any Person, such Person (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

“Billing Period” means each Month or partial Month used for billing purposes pursuant to ARTICLE 10.

“Btu” means British thermal unit, the quantity of heat required to raise one pound of water one degree Fahrenheit at or near its point of maximum density.

“Business Day” means any Day except Saturday, Sunday or a weekday that is a Holiday.

“Capacity Payment” means the Product 1 Capacity Payment, plus the Product 2 Capacity Payment, plus the Product 3 Capacity Payment. *[Note: This sample draft is representative only. A bidder’s proposal may result in a contract with only one (1) or two (2) Products.]*

“Cleco Power LLC” means the Buyer and any of its subsidiaries and any of their respective successors and assigns.

“Cleco System” means the interconnected, coordinated, electric utility systems of Buyer, or of any entity succeeding to the ownership or control thereof, that provide electric service to its customers.

“Commercially Reasonable Efforts” means, with respect to any purchase or sale or other action required to be made, attempted or taken by a Party hereunder, such efforts as a reasonably

prudent business would undertake for the protection of its own interest under the conditions affecting such purchase or sale or other action, including, without limitation, the amount of notice of the need to take such action, the duration and type of the purchase or sale or other action, the competitive environment in which such purchase or sale or other action occurs and the risk and cost to the Party required to take such action.

“Contesting” means, with respect to any Person, contesting (i) any Governmental Approval, acts or omissions by Governmental Agencies or any related matters or (ii) the amount or validity of any claim pursued by such Person in good faith and by appropriate legal, administrative or other proceedings diligently conducted so long as: (a) adequate reserves have been established with respect thereto in accordance with GAAP, and (b) neither Party could reasonably be expected to incur criminal or civil liability with respect thereto.

“Contract Capacity” has the meaning assigned to such term in Section 3.3.

“Contract Price” means with respect to Product 1 Energy, Product 2 Energy, Product 3 Energy, and Network Resource Energy: $((HR * FI) + VOM) + FTA$, using the definitions for such variables applicable for Product 1 Energy, Product 2 Energy, Product 3 Energy, and Network Resource Energy as set forth herein. *[Note: This is a sample and does not mean a proposal must include this number of Products]*

“Contract Quantity” means

- with respect to Product 1 Energy: ____ MW of energy each Peak Hour and Off-Peak Hour (i.e., “7x24”) during the Delivery Term;
- with respect to Product 2 Energy: ____ MW of energy each Peak Hour (i.e., “5x16”) during the Delivery Term;
- with respect to Product 3 Energy: ____ MW of energy per hour determined pursuant to Section 3.2(c) during the Delivery Term;
- with respect to Network Resource Energy: the quantity of energy determined pursuant to Section 3.2(d); and
- with respect to Contract Capacity: ____ MW each Peak Hour and Off-Peak Hour (i.e., “7x24”) during the Delivery Term (“Product 1 Capacity”); plus an additional ____ MW each Peak Hour (i.e., “5x16”) during the Delivery Term (“Product 2 Capacity”); plus an additional ____ MW (with associated energy rights as further defined in Section 3.2(c)) (“Product 3 Capacity”);

“Control Area” means an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to (i) match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s), (ii) maintain scheduled interchange with other Control Areas, within the limits of Prudent Industry Practices, (iii) maintain the frequency of the electric power system(s) within reasonable limits in accordance with Prudent Industry Practices, and

(iv) provide sufficient generating capacity to maintain operating reserves in accordance with Prudent Industry Practices.

“Control Area Operator” means the Person(s) (including without limitation Transmission Provider(s), independent systems operator(s) or regional transmission organization(s)) in control of the physical operation of and responsible for fulfilling the duties necessary to operate a Control Area.

“Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements that replace this Agreement; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination hereof.

“CPT” means Central Daylight Saving Time when such time is in effect in Pineville, Louisiana, and otherwise means Central Standard Time.

“Day” means the twenty-four (24) hour period beginning at Hour Ending 0100 CPT and ending at Hour Ending 2400 CPT.

“Defaulting Party” has the meaning assigned to such term in Section 14.2(a).

“Delivered Energy” means the Net Electrical Output plus Other Source Energy delivered during a given period, plus (a) energy quantities that would have been delivered in such period but for an event as described in Subsection (iii) of the definition of “Unit Firm”, and (b) energy quantities that would have been delivered with respect to a Designated Network Resource Dispatch minimum run hour requirement, but for the direction of the Control Area Operator to discontinue generation.

“Delivery Point” means (i) the busbar of the Designated Unit, or (ii) for Other Source Energy, the respective physical interconnection between Buyer’s transmission system and the transmission systems of Entergy, American Electric Power, and/or Lafayette City-Parish Consolidated Government and/or any other control areas which are or may become physically interconnected with Cleco’s Control Area, or the physical point of interconnection between any Cleco-owned generation resource, and/or any other non-Cleco generation resource and the Cleco Control Area.

“Delivery Term” has the meaning assigned to such term in ARTICLE 2.

“Designated Unit” means Unit ___ plus its associated facilities at the Seller’s Generating Facility.

“Dollars” or “\$” means the lawful currency of the United States of America.

“Early Termination Date” has the meaning assigned to such term in Section 14.2(a).

“Effective Date” is the date first set forth above.

“Energy Payment” means, for each Billing Period, the payment to be made by Buyer to Seller for the Delivered Energy, in accordance with Section 8.3, subject to the other terms hereof.

“Entergy” means Entergy Corporation and any of its subsidiaries and any of their respective successors and assigns.

“Equivalent Force Majeure Hours” means for any hour, the product of (a) the amount of Contract Capacity unavailable or limited due to a Force Majeure Event, expressed in MW, and (b) the period for which such Contract Capacity is unavailable or limited, expressed in hours (or portion thereof).

“Event of Default” has the meaning assigned to such term in Section 14.1.

“Firm (LD)” means that either Party shall be relieved of its obligations to sell and deliver or purchase and receive one of the Products without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to whom such performance is owed shall be entitled to receive from the Party that failed to deliver or receive (as the case may be) an amount determined pursuant to ARTICLE 9 (Remedies for Failure to Deliver/Receive Energy; Termination for Low Rolling Monthly Availability).

“Firm Transmission Contingent – Delivery Point” means that the performance of Seller shall be excused, and no damages shall be payable, if the transmission to the Delivery Point is interrupted or curtailed and (i) Seller has provided for firm transmission with the Transmission Provider(s) for the energy to be delivered hereunder to the Delivery Point and (ii) such interruption or curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the applicable Transmission Provider’s tariff. This transmission contingency excuses performance for the duration of the interruption or curtailment, notwithstanding the provisions of the definition of “Force Majeure Event” to the contrary. Interruptions or curtailments of transmission other than the transmission immediately to the Delivery Point shall not excuse performance.

“Force Majeure Event” has the meaning assigned to such term in Section 13.1.

“Force Majeure Unavailable Quantities” has the meaning assigned to such term in Section 8.2(a)(i).

“Forced Outage” shall have the meaning as defined in the NERC Generating Unit Availability Data System (“GADS”) forced outage reporting guidelines, as modified from time to time.

“Fuel Index” or “FI” means:

- for Product 1, the Fuel Index for the month in which the Energy is delivered shall be _____.

- for Product 2 Energy, Product 3 Energy, and Network Resource Energy, the price of natural gas posted by _____.

“Fuel Tax Adder” or “FTA” means the actual fuel usage tax supported by documentary evidence reasonably acceptable to Buyer, if any, assessed to and paid by Seller associated with Net Electrical Output and Delivered Energy.

“GAAP” means generally accepted accounting principles as in effect from time to time in the United States.

“Gains” means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination hereof, determined in a commercially reasonable manner.

“Generation Imbalance Charges” means any charges for imbalance energy, penalties, fees or charges assessed by a Transmission Provider or a Control Area Operator for failure to satisfy requirements for balancing of electric energy receipts and deliveries or loads and generation.

“Government Agency” means any federal, state, local, territorial or municipal government, governmental department, commission, board, bureau, agency, instrumentality, judicial or administrative body (or any agency, instrumentality or political subdivision thereof).

“Governmental Approval” means any authorization, consent, approval, license, lease, ruling, permit, exemption, filing, variance, order, judgment, decree, publication, notice to, declarations of or with or regulation by or with any Government Agency relating to the acquisition, ownership, occupation, construction, start-up, testing, operation or maintenance of the Seller’s Generating Facility or to the execution, delivery or performance hereof.

“Guaranteed Monthly Availability” means in respect of any Month or partial Month,
 (i) _____ Percent (___%) for any adjustments to the Product 1 Capacity Payment and
 (ii) _____ Percent (___%) for any adjustments to the Product 2 Capacity Payment and Product 3 Capacity Payment, pursuant to Section 8.2.

“Heat Rate” or “HR” means

- in the case of Product 1 Energy, _____ Btu per kWh;
- in the case of Product 2 Energy, _____ Btu per kWh;
- in the case of Product 3 Energy, _____ Btu per kWh, and
- in the case of Network Resource Energy, with respect to each Network Resource Dispatch:

| | | |
|---------------------------------------|--|--|
| Number of Network Resource Dispatches | Heat Rate (Applies for Minimum Dispatch MWh Only; Thereafter the Applicable | |
|---------------------------------------|--|--|

| Per Calendar Year | Product 1,2 or 3 Heat Rate) | Minimum Dispatch MWh |
|-------------------|-----------------------------|----------------------|
| _____ | _____ Btu/kWh | _____ |
| _____ | _____ Btu/kWh | _____ |

“Holiday” means any holiday observed by the NERC.

“Hour Ending” or “HE” means a consecutive sixty (60) minute period ending at 00. For example, Hour Ending 0700 means the period from 0601 CPT through 0700 CPT.

“Interconnection Agreement” means the Interconnection and Operating Agreement between _____ and _____ dated _____.

“Interest Rate” has the meaning assigned to such term in Section 10.6.

“Interface” has the meaning assigned to such term in the definition of “Into Cleco” in Schedule 4.5(b).

“Into Cleco” means an interconnection or Interface (a) on the Cleco System border or (b) within the Control Area of Cleco, and subject to the provisions of Schedule 4.5(b).

“kW” means kilowatt.

“kWh” means kilowatt-hour(s).

“Law” means any statute, law, ordinance, code, rule or regulation, or other applicable legislative or administrative action of any Government Agency, or any judicial or administrative interpretation thereof.

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination hereof, determined in a commercially reasonable manner.

“MMBtu” means one million (1,000,000) Btus.

“Month” means a period of Days beginning at Hour Ending 0100 CPT on the first Day of a calendar month and ending at Hour Ending 2400 CPT on the last Day of the same calendar month.

“Monthly Availability” has the meaning assigned to such term in Section 8.2.

“Monthly Availability Adjustment” has the meaning assigned to such term in Section 8.2.

“MW” means megawatt.

“MWh” means megawatt-hour(s).

“NERC” means the North American Electric Reliability Council or any such succeeding entity.

“Net Electrical Output” means, for any period, the net electric energy output, (measured in MWh) of the Designated Unit delivered to Buyer hereunder.

“Network Resource Dispatch” means any dispatch and/or redispatch (whether ramp up or ramp down) of the Designated Unit as a result of its classification as a Network Resource or Seller’s covenant to dispatch or run the Designated Unit as provided in Section 5.2.

“Network Resource Energy” has the meaning assigned to such term in Section 3.2.

“Non-Defaulting Party” has the meaning assigned to such term in Section 14.2.

“OATT” means an open access transmission tariff of the Control Area Operator filed with the FERC.

“Off-Peak Hour” means any hour which is not a Peak Hour.

“Off-Peak Period” means the period in a Day consisting of all Off-Peak Hours.

“Other Source Energy” means electricity from sources other than the Designated Unit that Seller delivers to Buyer hereunder subject to the terms, conditions, and limitations set forth in ARTICLE 4.

“Peak Hour” means any hour from Hour Ending 0700 CPT through Hour Ending 2200 CPT on Monday through Friday, excluding Holidays.

“Peak Period” means the period in a Day consisting of all of the Peak Hours.

“Permitted Planned Outage” means all planned maintenance outage schedules under Prudent Industry Practices and that are planned and scheduled for the Designated Unit a minimum thirty (30) days in advance of the start date and having a predetermined start and end date and, (i) not during any portions of the months of June, July, August, September, January and February, and (ii) where the cumulative total of all hours of all planned outages during any calendar year of the Delivery Term would not exceed five hundred four (504) hours, except for one (1) year during the Delivery Term when an approximate eight (8) week (one thousand three hundred forty-four (1,344) hour) major maintenance outage would be permitted.

“Person” means any individual, corporation, partnership, limited liability company, association, joint venture, trust, unincorporated organization or Government Agency or other entity.

“Product 1 Capacity” has the meaning assigned to such term in the definition of “Contract Quantity”.

“Product 2 Capacity” has the meaning assigned to such term in the definition of “Contract Quantity”.

“Product 3 Capacity” has the meaning assigned to such term in the definition of “Contract Quantity”.

“Product 1 Capacity Payment” has the meaning assigned to such term in Section 8.2.

“Product 2 Capacity Payment” has the meaning assigned to such term in Section 8.2.

“Product 3 Capacity Payment” has the meaning assigned to such term in Section 8.2.

“Product 1 Energy” has the meaning assigned to such term in Section 3.2.

“Product 2 Energy” has the meaning assigned to such term in Section 3.2.

“Product 3 Energy” has the meaning assigned to such term in Section 3.2.

“Products” means the Contract Capacity, Product 1 Energy, Product 2 Energy, the Product 3 Energy, and the Network Resource Energy.

“Prudent Industry Practices” means any of the practices, methods, standards and acts engaged in or approved by a significant portion of the electric power generation industry 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 consistent with good business practices, reliability, economy, safety and expedition, and which practices, methods, standards and acts generally conform to operation and maintenance standards recommended by the Designated Unit’s equipment suppliers and manufacturers, the Design Limits and applicable Governmental Approvals and Law.

“Replacement Price” means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and (ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer’s option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller’s liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

“Rolling Monthly Availability” means, in respect of each of, as of the end of any Month commencing with the twelfth (12th) Month of the Delivery Term, the weighted average of the Monthly Availabilities calculated pursuant to Section 8.2 for the last twelve (12) Months.

“Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional

transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller's option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer's liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

“Schedule” or “Scheduling” means the actions of Seller, Buyer and/or their designated representatives, including each Party's Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Term at the Delivery Point.

“Seller's Generating Facility” means that certain generating facility currently owned and operated by _____, located in _____ Parish, near _____, Louisiana, and consisting of _____ units, and associated facilities.

“Settlement Amount” means, with respect to the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in Dollars, that such party incurs as a result of the termination hereof pursuant to this Agreement.

“Tag” means the collection of information in the electronic request for an energy schedule and subsequent responses utilized in NERC Tag procedure.

“Tag Author” has the meaning assigned to such term in Section 6.2.

“Taxes” means, with respect to any Person, all taxes, withholdings, assessments, imposts, duties, governmental fees, governmental charges or levies imposed directly or indirectly on such Person or its sales, income, profits or property by any Government Agency.

“Termination Payment” has the meaning assigned to such term in Section 14.2.

“Transmission Provider” means any electric utility, Control Area Operator, or other Person that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce.

“Transmission System” means the facilities owned, controlled or operated by a Transmission Provider that are used to provide transmission service.

“Unit Firm” means, with respect to energy or capacity intended to be delivered (or made available) from a specified generation asset (i.e. the Designated Unit), that any failure of Seller to deliver (or make available) shall be excused if and to the extent all or part of the specified generation asset is unavailable, or performance by Seller is otherwise not possible, as a result of (i) a Forced Outage, (ii) any ramp down or reduction or cap on output, required by any Control Area Operator for Cleco System reliability reasons, or by virtue of being a “Network Resource”

(as defined in the OATT) or similar status, (iii) a Force Majeure Event or (iv) Buyer's failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Section 9.1, except for any adjustments made to the Capacity Payment pursuant to Section 8.2, which shall be Buyer's sole and exclusive remedy.

"Unit Firm Unavailability" or "Unit Firm Unavailable" means any period during which all or part of the a specified source of energy (i.e. the Designated Unit or **[another unit at the same Seller's Generating Facility]**) is unavailable hereunder due to any of the conditions set forth in the definition of "Unit Firm".

"Variable O&M" or "VOM" means:

- _____ Dollars (\$_____) per MWh for all Delivered Energy. *[Note: any proposed indexing must be described in the Bidder's proposal]*

1.2 Interpretation

Unless the context otherwise requires:

- (a) Words singular and plural in number will be deemed to include the other and pronouns having masculine or feminine gender will be deemed to include the other.
- (b) Any reference herein to any Person includes its successors and permitted assigns and, in the case of any Government Agency, any Person succeeding to its functions and capacities.
- (c) Any reference herein to any Section, Exhibit or Schedule means and refers to the Section contained in or Exhibit or Schedule attached hereto.
- (d) Other grammatical forms of defined words or phrases have corresponding meanings.
- (e) A reference to writing includes printing, facsimile, e-mail and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form.
- (f) Unless otherwise specified, a reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.
- (g) A reference to a Party hereto includes that Party's successors and permitted assigns.
- (h) A reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, amended, supplemented or restated from time to time.
- (i) If any payment, act, matter or thing hereunder would occur on a Day that is not a Business Day or Day on which banks are closed in New York, New York, then such payment,

act, matter or thing shall, unless otherwise expressly provided for herein, occur on the next succeeding Business Day.

(j) Any reference in this Agreement to “hereof,” “hereunder,” “herein,” “herewith,” or “hereto,” shall refer to this entire Agreement.

1.3 Technical Meanings

Words not otherwise defined herein that have well-known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings, as of the Effective Date.

ARTICLE 2 DELIVERY TERM

The term hereof shall commence on January 1, 2007, HE 0100 CPT and continue through December 31, 2009, HE 2400 CPT (“Delivery Term”).

ARTICLE 3 SALE AND PURCHASE OF ENERGY AND CAPACITY

3.1 Seller’s and Buyer’s Obligations to Delivery and Receive Energy

Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the respective Contract Quantity of the Product 1 Energy, Product 2 Energy, the Product 3 Energy, and the Network Resource Energy at the Delivery Point, and Buyer shall pay Seller the Energy Payment.

3.2 Energy Products Definitions

The energy products purchased and sold hereunder are as follows:

(a) “Product 1 Energy”: a ____ MW block of energy per hour that Buyer has the obligation to take twenty-four (24) hours of each Day (7x24) of the Delivery Term and pay for hereunder;

(b) “Product 2 Energy”: a ____ MW block of energy per hour that Buyer has the obligation to take sixteen (16) on-peak hours (HE 0700 through HE 2200) of each Business Day (5x16) of the Delivery Term and pay for hereunder;

(c) “Product 3 Energy”: a quantity of ____ MW of energy each hour if and when called at least sixteen (16) continuous hours by Buyer (at Buyer’s day-ahead call option consistent with the Scheduling requirements of the Transmission Provider) from Seller during the Delivery Term; and

(d) “Network Resource Energy”: All energy generated by the Designated Unit pursuant to or because of a Network Resource Dispatch (including without limitation any start-up or ramping energy).

3.3 Contract Capacity

(a) Seller shall sell and make available to Buyer and Buyer shall purchase and receive the Contract Capacity, and Buyer shall pay Seller the Capacity Payment.

(b) “Contract Capacity” means with respect to the Designated Unit only (i) the right of Buyer to designate all or part of the Contract Capacity of the Designated Unit as a Network Resource (as such term is defined in the Cleco OATT), and (ii) Seller’s obligation to cause Network Resource Dispatches on the terms and conditions specified herein. The Contract Quantity for the Contract Capacity shall consist of Product 1 Capacity, Product 2 Capacity, and Product 3 Capacity (all as defined in the definition of Contract Quantity). The Parties acknowledge and agree that Contract Capacity does not include any rights to ancillary services or include any rights to energy (other than the energy Products expressly enumerated and defined in Section 3.2, above) or any capacity rights to the Seller’s Generating Facility other than with respect to the Designated Unit (as expressly defined above).

3.4 Firmness of Obligations

(a) Buyer’s obligations to purchase and receive the Products delivered or made available by Seller hereunder shall be Firm (LD).

(b) Seller’s obligation to sell and deliver or make available the Products shall be as follows:

(i) For energy to be delivered from the Designated Unit: Unit Firm;

(ii) For energy to be delivered pursuant to Seller’s Other Source Energy rights set forth in ARTICLE 4:

(A) If Seller has procured firm transmission to the Delivery Point: Firm Transmission Contingent – Delivery Point;

(B) If Seller has not procured firm transmission to the Delivery Point: Firm (LD);

(C) If Other Source Energy is delivered from another unit at Seller’s Generating Facility: Unit Firm;

(iii) For Contract Capacity: Unit Firm.

3.5 Responsibility for Associated Costs and Charges

Except as stated otherwise in this Agreement, Seller shall be responsible for any costs or charges imposed on or associated with the Products, or their delivery, up to the Delivery Point.

Buyer shall be responsible for any costs or charges imposed on or associated with the Products or their receipt, at and from the Delivery Point.

3.6 Scheduling of Products

Product 1 Energy, Product 2 Energy, Product 3 Energy , and Network Resource Energy shall be made available by Seller and accepted and paid for by Buyer pursuant to the fixed schedules provided for Products herein, or according to dispatched quantities pursuant to the terms of Product 3 Energy or Network Resource Energy (as applicable).

3.7 Deemed Delivery of Energy

For all purposes under this Agreement, Delivered Energy shall be deemed attributable (a) Network Resource Energy, up to the specified minimum MWh in the table in definition of Heat Rate, (b) second to Product 1 Energy (up to its Contract Quantity), (c) third to Product 2 Energy (up to its Contract Quantity), and (d) last to Product 3 Energy (up to its Contract Quantity).

**ARTICLE 4
ENERGY SOURCES; SCHEDULING AND AVAILABILITY
NOTICES; CURTAILMENTS OF DESIGNATED UNIT;
PERMITTED PLANNED OUTAGES**

4.1 Energy from the Designated Unit Except Under Limited Conditions

(a) The energy delivered by Seller hereunder shall be generated by the Designated Unit at all times, except that (i) Seller may deliver Other Source Energy from other units at the Seller's Generating Facility at any time at Seller's sole discretion, (ii) during the months of October through May (inclusive) and (iii) during Unit Firm Unavailability hours, Seller may in Seller's discretion provide Other Source Energy up to the Contract Quantity, subject to the terms and limitations set forth in this Agreement (including without limitation, ARTICLE 4); provided at all times the level of Unit Firm availability of the Designated Unit, if below the Contract Quantity, shall determine the minimum quantity of energy required to be delivered by Seller and received by Buyer, the decision to deliver greater quantities (up to the Contract Quantity) from Other Source Energy being in Seller's sole discretion.

(b) Notwithstanding any other provision herein, Seller shall not be required to deliver Net Electrical Output that would (i) require the Designated Unit to operate in a manner materially inconsistent with Prudent Industry Practices or applicable Laws or Governmental Approvals, (ii) require the delivery of Net Electrical Output in a manner inconsistent with the Cleco Interconnection Agreement, (iii) require the Designated Unit to operate at a capacity above that declared by Seller to be available in an Availability Notice, or (iv) require the Designated Unit to operate during Permitted Planned Outages (except in this latter case to the extent it may be available to operate at reduced output levels). Seller shall use Commercially Reasonable Efforts to operate the Designated Unit to avoid Unit Firm Unavailability and to minimize the length of any Forced Outage.

4.2 Availability and Scheduling Notices

In order to facilitate the identification, scheduling, and notification of the availability, of energy sources hereunder, Buyer and Seller will cooperate to develop appropriate and efficient processes and protocols for the communication of the such information, which shall initially be as follows (subject to change by agreement of the respective operations personnel of Buyer and Seller). Without limitation of the foregoing, Buyer and Seller specifically agree to adjust deadlines or procedures for notices hereunder to the extent the Control Area Operator or regional transmission organization alters the applicable scheduling procedures.

(a) Seller shall furnish to Buyer an Availability Notice and a Scheduling Notice with respect to the Designated Unit and Other Source Energy, if any, at or before 07:00 a.m. and 09:30 a.m., respectively, CPT on each Business Day prior to the first Day to which such notice shall relate, all pursuant to the procedures set forth in this Section 4.2 and in the forms set forth in Schedule 4.2-A and Schedule 4.2-B.

(b) Seller shall furnish to Buyer a new Availability Notice and/or Scheduling Notice, as applicable, as soon as practicable after Seller determines that (i) the actual available capacity is greater or less than the available capacity set forth in the current Availability Notice, or (ii) some or all of the available capacity from the Designated Unit is being provided from Other Source Energy rather than from the Designated Unit or vice versa.

(c) The Parties consent to electronic recording of scheduling and other communications hereunder, which recordings may be used as evidence of the Parties' intended course of conduct hereunder (subject to objections for relevance and materiality).

4.3 Designated Unit Curtailments

(a) Seller shall use its Commercially Reasonable Efforts to provide reasonable advance notice to Buyer of all curtailments and interruptions of the Designated Unit's ability to generate and/or Seller's ability to deliver, energy Scheduled hereunder and, in any event, Seller shall so notify Buyer as soon as possible, along with its good faith estimate of the duration of any such unavailability, no later than one (1) hour after occurrence. Such estimate shall be updated as soon as possible when new information becomes available, but no less frequently than daily.

(b) The end of any outage affecting the Designated Unit shall be deemed to occur upon Seller's providing an Availability Notice hereunder that the Designated Unit can deliver the Net Electrical Output and Seller is providing Net Electrical Output and/or Other Source Energy in an aggregate quantity not less than the quantity deemed available in the Availability Notice. When Seller is not delivering all of the Contract Quantity for energy hereunder, the end of any outage shall be deemed to occur as mutually agreed upon by the Parties.

(c) During any outage or derate, due to any cause, of the Designated Unit, deliveries Scheduled therefrom to Buyer will be the last deliveries from the Designated Unit to be curtailed, except, if Seller executes an agreement with a non-affiliated third party for, (i) all or part of any remaining capacity of the Designated Unit above the Contract Capacity, (ii) Unit Firm capacity and energy, (iii) a specified and fixed monthly or annual capacity payment, and (iv) an energy delivery requirement specifying a must-take volume or minimum load factor, then the deliveries

will be prorated based on relative capacity amounts. In the case of a dispute under this Section 4.3(c), whether or not Seller's sale(s) to third parties met the requirements in this Section shall be determined by a neutral third-party agreed to by the Parties who shall keep the identity and details of Seller's sale(s) to third parties confidential and not reveal any commercial details thereof to Buyer.

(d) When there is an increase in the actual available capacity of the Designated Unit during or following an outage, Seller shall deliver Net Electrical Output from the Designated Unit or Other Source Energy equal to or greater than the actual available capacity and Buyer shall accept that increased Delivered Energy, not to exceed the Contract Quantity.

4.4 Permitted Planned Outages

Seller shall provide Buyer with written notice of all proposed Permitted Planned Outage schedules upon the earlier of (i) when the proposed schedule is provided to Cleco Transmission or (ii) as soon as provided to Seller, but not less than thirty (30) days prior to the beginning of the proposed Permitted Planned Outage. Both Parties shall make Commercially Reasonable Efforts to coordinate the Designated Unit's Permitted Planned Outage schedules with scheduled outages planned for Buyer's other electricity resources, with the goal that deliveries hereunder can be achieved at the times Buyer needs them to the maximum extent practicable.

4.5 Other Source Energy

(a) Other Source Energy may be delivered by Seller only during the periods specified in Section 4.1 and periods of Unit Firm Unavailability, up to the Contract Quantity.

(b) Scheduling and Transmission of Other Source Energy: Seller shall procure firm transmission to the Delivery Point, for Other Source Energy, except that on an intra day basis to complete a Schedule, "Other Source Energy" may be an "Into Cleco" "Firm (LD)" product if firm transmission is not available. Seller and Buyer shall abide by and be subject to the "Into Cleco" protocol as set forth in Schedule 4.5(b).

(c) Buyer's obligation to pay for Other Source Energy in times of Designated Unit's Unit Firm Unavailability continuing from a Peak Period to an Off-Peak Period shall be capped during such Off-Peak Period at the average per hour amount of Delivered Energy during such prior Peak Period outage, subject to increases in the actual available capacity of the Designated Unit, as provided in Section 4.3(d) above; unless (i) Seller has a firm schedule already in place for such Off Peak Period (excluding Permitted Planned Outage periods) for delivery hereunder, and (ii) Seller covenants to deliver at least the same quantity of energy (in equal hourly amounts to the greatest extent practicable) in the Peak Period following an Off-Peak Period, or (iii) the operating and scheduling personnel of the Parties agree otherwise.

(d) If the source of the energy being provided by Seller is other than the Designated Unit, and all or part of the Designated Unit is available without need of start-up or synchronization, and such other source of energy is curtailed for any reason such that it is not deliverable to the Delivery Point, then Seller shall, beginning in the next hour following such curtailment, provide energy to the extent of such availability from an alternate source to the Delivery Point or from the Designated Unit, as determined by Seller.

(e) If the source of the energy being provided by Seller is other than the Designated Unit, and capacity of Designated Unit is offline, and such other source of energy is curtailed for any reason such that it is not deliverable to the Delivery Point, then Seller shall, beginning in the next hour following such curtailment, provide the energy from an alternate source to the Delivery Point or within four hours from the Designated Unit.

**ARTICLE 5
NETWORK RESOURCE DESIGNATION AND DISPATCH**

5.1 Designation of Designated Unit as a Network Resource

The Parties acknowledge that it is their mutual intent that the Buyer shall designate the Designated Unit as a Network Resource (as such term is defined in the OATT), up to the Contract Quantity for the Contract Capacity, and shall use their Commercially Reasonable Efforts to maintain such designation throughout the Delivery Term; provided, however, Seller does not guarantee the Designated Unit will qualify as a Network Resource; and in no event shall Seller be required to incur additional costs associated with such designation by Buyer, or otherwise to grant any additional rights with respect to the Designated Unit or the Seller's Generating Facility, other than those expressly set forth herein.

5.2 Network Resource Dispatch

Seller shall dispatch and/or redispatch, whether "ramp up" or "ramp down", the Designated Unit during the Delivery Term should such dispatch and/or redispatch be required by virtue of the Designated Unit's designation as a Network Resource and in accordance with NERC criteria ("Network Resource Dispatch"); provided, Buyer shall pay Seller the Energy Payments for Network Resource Energy.

**ARTICLE 6
TITLE RISK OF LOSS; TRANSMISSION AND OTHER
SERVICES; PERMITS; COMPLIANCE WITH LAWS**

6.1 Title; Risk of Loss

As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of the Net Electrical Output and Other Source Energy prior to the Delivery Points and Buyer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of the Net Electrical Output and Other Source Energy at and after the Delivery Points. Title and risk of loss related to the Net Electrical Output and Other Source Energy shall transfer from Seller to Buyer at the Delivery Points.

6.2 Transmission and Other Services

Seller shall deliver the Net Electrical Output and Other Source Energy to the Delivery Points. Seller shall be responsible for obtaining and be liable for any costs associated with transmission services and any ancillary or control area services required by FERC, Transmission

Provider, or any independent system operator or other transmission utility with respect to the delivery and transmission of Net Electrical Output and Other Source Energy to the Delivery Points. Buyer shall be responsible for obtaining transmission services and any ancillary or control area services required by FERC, Transmission Provider, or any independent system operator or other transmission utility with respect to the delivery and transmission of Net Electrical Output and Other Source Energy at and after the Delivery Points. Buyer and Seller shall comply with all applicable criteria, requirements and policies of FERC, NERC, a regional transmission organization, or their successors, as they pertain to the scheduling, tagging or transmission of energy hereunder. Both Parties shall use Commercially Reasonable Efforts to avoid, and each Party shall pay for Generation Imbalance Charges resulting from, generator imbalance energy to the same extent its respective acts or omissions caused Generation Imbalance Charges to be incurred by either Party.

Buyer, as “Tag Author” for Contract Capacity from the Designated Unit shall submit any resulting requisite daily schedules and associated NERC Tags, as needed, to the applicable Control Area and/or Transmission Provider at and after the Delivery Point(s). Seller, as “Tag Author” for Other Source Energy (other than a unit at Seller’s Generating Facility) shall submit any resulting requisite daily schedules and associated NERC Tags, as needed, to the applicable Control Area and/or Transmission Provider up to the Delivery Point(s).

6.3 Compliance with All Laws; Governmental Approvals

(a) Seller shall, at its expense, comply with all Laws and Governmental Approvals applicable to Seller and shall comply with all Laws and Governmental Approvals, with respect to the Designated Unit, as necessary for Seller’s performance of its obligations hereunder. Notwithstanding the foregoing, Seller shall not be deemed in default of this obligation if it is Contesting the application, interpretation, order, or other legal direction or Governmental Approval of any such Governmental Agency in good faith and with due diligence through appropriate proceedings and if such non-compliance does not have a material adverse effect on Seller’s performance.

(b) Buyer shall at its expense, at all times, comply with all Laws and Governmental Approvals applicable to Buyer or necessary for Buyer’s performance of its obligations hereunder. Notwithstanding the foregoing, Buyer shall not be deemed in default of this obligation if Buyer is Contesting the application, interpretation, order, or other legal direction or Governmental Approval of any such Governmental Agency in good faith and with due diligence through appropriate proceedings and if such non-compliance does not have a material adverse effect on Buyer’s performance.

**ARTICLE 7
METERING**

7.1 Measurement and Quality of Electricity

All Net Electrical Output (and Delivered Energy that is Other Source Energy) shall be as measured by the relevant Cleco revenue meters for the point of interconnection described in the Cleco Interconnection Agreement. Electricity generated by the Seller’s Generating Facility and

delivered to Buyer shall be three phase, nominally sixty (60) hertz, shall be at _____(____) kV and/or _____ (____) kV nominal when delivered to the Delivery Points, and shall be in accordance with the Cleco Interconnection Agreement. If electricity delivered by Seller hereunder fails to conform to the specifications set forth above, Seller (as soon as reasonably practicable after becoming aware thereof) shall notify Buyer of the same and of its best good faith estimate of the duration and extent of such failure to conform, and Seller shall make Commercially Reasonable Efforts to cure such failure as soon as reasonably practicable thereafter.

**ARTICLE 8
PAYMENTS**

8.1 Capacity Payments

Except as adjusted pursuant to Section 8.2, for each Billing Period during the Delivery Term, Buyer shall pay Seller Capacity Payments for each Billing Period as follows:

Product 1 Capacity Payment
(In Thousands)

| Billing Month | Amount | Billing Month | Amount | Billing Month | Amount | Billing Month | Amount |
|---------------|---------|---------------|---------|---------------|---------|---------------|---------|
| January | \$_____ | April | \$_____ | July | \$_____ | October | \$_____ |
| February | \$_____ | May | \$_____ | August | \$_____ | November | \$_____ |
| March | \$_____ | June | \$_____ | September | \$_____ | December | \$_____ |

Product 2 Capacity Payment
(In Thousands)

| Billing Month | Amount | Billing Month | Amount | Billing Month | Amount | Billing Month | Amount |
|---------------|---------|---------------|---------|---------------|---------|---------------|---------|
| January | \$_____ | April | \$_____ | July | \$_____ | October | \$_____ |
| February | \$_____ | May | \$_____ | August | \$_____ | November | \$_____ |
| March | \$_____ | June | \$_____ | September | \$_____ | December | \$_____ |

Product 3 Capacity Payment
(In thousands)

| Billing Month | Amount | Billing Month | Amount | Billing Month | Amount | Billing Month | Amount |
|---------------|---------|---------------|---------|---------------|---------|---------------|---------|
| January | \$_____ | April | \$_____ | July | \$_____ | October | \$_____ |
| February | \$_____ | May | \$_____ | August | \$_____ | November | \$_____ |
| March | \$_____ | June | \$_____ | September | \$_____ | December | \$_____ |

8.2 Monthly Availability Adjustment to Capacity Payment

(a) A “Monthly Availability Adjustment” to the Capacity Payment will be based on the following:

(i) Initial Reduction for Force Majeure Unavailable Quantities. For capacity of the Designated Unit less than the Contract Quantity due solely to Force Majeure Events to the extent there has been no Delivered Energy therefore (“Force Majeure Unavailable Quantities”), the Capacity Payment shall be adjusted as follows:

(A) The Product 1 Capacity Payment shall first be reduced by multiplying it by the following: the number of hours in the Month multiplied by Contract Quantity for Product 1 Capacity (____ MW), minus the sum of all Force Majeure Unavailable Quantities for each hour of such Month, divided by the number of hours in the Month multiplied by Contract Quantity for Product 1 Capacity (____ MW); provided in no event shall the adjusted Product 1 Capacity Payment be less than zero:

$$FMACP1 = CP * (((HM * CQ) - UQ) / (HM * CQ))$$

Where:

“FMACP1” means “Force Majeure Adjusted Capacity Payment” for Product 1 Capacity;

“CP” means “Product 1 Capacity Payment” set forth in the relevant table in Section 8.1 above;

“HM” means the number of Hours in the applicable Month;

“CQ” means ____ MW; and

“UQ” means the Force Majeure Unavailable Quantities in the applicable Month.

(B) The Product 2 Capacity Payment shall first be reduced by multiplying it by the following: the number of Peak Hours in the Month multiplied by the Contract Quantity for Product 2 Capacity (____ MW), minus the sum of all Force Majeure Unavailable Quantities for each Peak Hour of such Month in excess of ____ MW in each such hour, divided by the number of Peak Hours in the Month multiplied by Contract Quantity for Product 2 Capacity (____ MW); provided in no event shall the adjusted Product 2 Capacity Payment be less than zero (0):

$$FMACP2 = CP * (((HM * CQ) - UQ) / (HM * CQ))$$

Where:

“FMACP2” means Force Majeure Adjusted Product 2 Capacity Payment;

“CP” means the Product 2 Capacity Payment (as set forth in the relevant table in Section 8.1 above);

“HM” means the number of Peak Hours in the applicable Month;

“CQ” means the Contract Quantity for Product 2 Capacity (____ MW); and

(C) “UQ” means the sum of the Force Majeure Unavailable Quantities for each Peak Hour of such Month in excess of ____ MW in each such hour. The Product 3 Capacity Payment shall first be reduced by multiplying it by the following: the number of Peak Hours in the Month multiplied by the Contract Quantity for Product 3 Capacity (____ MW), minus the sum of all Force Majeure Unavailable Quantities for each Peak Hour of such Month in excess of ____ MW in each such hour, divided by the number of Peak Hours in the Month multiplied by Contract Quantity for Product 3 Capacity (____ MW); provided in no event shall the adjusted Product 3 Capacity Payment be less than zero (0):

$$FMACP3 = CP * (((HM * CQ) - UQ) / (HM * CQ))$$

Where:

“FMACP3” means Force Majeure Adjusted Product 3 Capacity Payment;

“CP” means Product 3 Capacity Payment (as set forth in the relevant table in Section 8.1 above);

“HM” means the number of Peak Hours in the applicable Month;

“CQ” means the Contract Quantity for Product 3 Capacity (____ MW); and

“UQ” means the sum of the Force Majeure Unavailable Quantities for each Peak Hour of such Month in excess of ____ MW in each such hour.

(ii) Non-Force Majeure Availability Adjustment Following the application of any reduction pursuant to subsection (i) above (“Initial Reduction for Force Majeure Unavailable Quantities”), for each percent that the “Monthly Availability”, determined pursuant to Subsection (A) or (B) below (as applicable), is less than the applicable Guaranteed Monthly Availability for such Month, the Product 1 Capacity Payment and/or Product 2 Capacity Payment and/or Product 3 Capacity Payment, as applicable, in such Month will be reduced in accordance with this Section (“Monthly Availability Adjustment”).

For each ____ Percent (____%) of the first ____ Percent (____%) that the Monthly Availability is less than the relevant Guaranteed Monthly Availability (such shortfall, the “Availability Shortfall Percentage”), the adjusted Product 1 Capacity Payment and/or Product 2 Capacity Payment and/or Product 3 Capacity Payment, as applicable, shall be reduced by ____ Percent (____%) each; for each ____ Percent (____%) of the second ____ Percent (____%) of the Availability Shortfall Percentage, the applicable Capacity Payment shall be reduced by ____ Percent (____%) each; and finally for each ____ Percent (____%) exceeding the first ____ Percent (____%) of the Availability Shortfall Percentage, the applicable Capacity Payment shall be reduced by ____ Percent (____%) each.

(A) The monthly availability with respect to the Product 1 Capacity Payment will be calculated as follows:

Where:

$$MA = \sum_{h=1}^n [DE_h / (CQ_h - (PPO_h + UQ_h))]$$

“n” means each hour;

“MA” means Monthly Availability;

“DE” means Delivered Energy;

“CQ” means Contract Quantity for Product 1 Capacity (i.e., ____ MW);

“PPO” means MWh unavailable due to Permitted Planned Outages; and

“UQ” means Force Majeure Unavailable Quantities applicable to Product 1.

(B) The monthly availability with respect to the Product 2 Capacity Payment will be calculated as follows:

Where:

$$MA = \sum_{h=1}^n [DE_h / (CQ_h - (PPO_h + UQ_h))]$$

“n” means each hour;

“MA” means Monthly Availability;

“DE” means Delivered Energy;

“CQ” means Contract Quantity for Product 2 Capacity;

“PPO” means MWh unavailable due to Permitted Planned Outages; and

“UQ” means Force Majeure Unavailable Quantities applicable to Product 2.

(C) The monthly availability with respect to the Product 3 Capacity Payment will be calculated as follows:

Where:
$$MA = \sum_{h=1}^n [DE_h / (CQ_h - (PPO_h + UQ_h))]$$

“n”
means each hour;

“MA” means Monthly Availability;

“DE” means Delivered Energy;

“CQ” means Contract Quantity for Product 3 Capacity;

“PPO” means MWh unavailable due to Permitted Planned Outages; and

“UQ” means Force Majeure Unavailable Quantities applicable to Product 3.

(b) To facilitate the foregoing calculations, Seller shall provide the summary information indicated and substantially in the form set forth in Schedule 8.2-A and Schedule 8.2-B.

(c) Each of the Product 1 Capacity Payment, the Product 2 Capacity Payment, and the Product 3 Capacity Payment shall neither increase above the applicable amounts set forth in the tables in Section 8.1 nor decrease to less than zero (0).

8.3 Energy Payments

(a) For each Billing Period during the Delivery Term, Buyer shall pay Seller an Energy Payment in arrears for the Delivered Energy during such Billing Period.

(b) The Energy Payment for each hour of any Billing Period shall be determined by allocating Delivered Energy as provided in Section 3.7 utilizing the following calculation. Any Delivered Energy in excess of the portion of the Contract Quantity that is Scheduled shall constitute generator imbalance energy pursuant to the Cleco Interconnection Agreement.

$$EP = [DE * ((HR * FI) + VOM)] + FTA$$

Where:

“EP” means Energy Payment;

“DE” means Delivered Energy (excluding deemed DE under subpart (a) of the definition of Delivered Energy, to the extent such amounts were due to the instruction of a Person not affiliated with or under the control of Buyer);

“HR” means the applicable Heat Rate;

“FI” means the applicable Fuel Index;

“VOM” means the applicable Variable O&M; and

“FTA” means the Fuel Tax Adder, if any.

**ARTICLE 9
REMEDIES FOR FAILURE TO DELIVER/RECEIVE ENERGY;
TERMINATION FOR LOW ROLLING MONTHLY AVAILABILITY**

9.1 Seller Failure

(a) If Seller fails to schedule and/or deliver all or part of the energy Products defined in Section 3.2 and such failure is not excused under the terms of the Product (including without limitation, under the “firmness” specified in Section 3.4) or by Buyer’s failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such deficiency equal to (a) the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price, multiplied by (b) such deficiency amount. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

(b) If Seller sells energy generated by the Designated Unit to a third party at a time when (i) Seller has represented the Designated Unit as being unavailable, and (ii) Seller is not actually delivering Other Source as required hereunder, then in addition to any amounts owed pursuant to Section 9.1(a), Seller shall be liable and shall pay to Buyer for the difference between the price it received from the third party for such energy and the Contract Price. Such payment shall be made upon Buyer Request. If Buyer disputes the amount owed by Seller, then upon Buyer’s request (made in good faith and on information and belief), Seller shall initiate an independent mutually acceptable third party audit (which shall keep the identity of Seller’s third party customer confidential) to determine the difference between the Contract Price and such third party sale price, multiplied by the quantity of energy not delivered to Buyer in breach of this Agreement. If such amount so determined is in excess of the amount payable pursuant to Section 9.1(a), then Seller shall promptly pay to Buyer the difference and Seller shall be liable for the cost of the auditor. If the auditor finds the amount paid by Seller was correct, Buyer shall pay for the cost of the auditor.

9.2 Buyer Failure

If Buyer fails to schedule and/or receive all or part of the energy Products defined in Section 3.2 and such failure is not excused under the terms of the Product (including without limitation, under the “firmness” specified in Section 3.4) or by Seller’s failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred, an amount for such deficiency equal to (a) the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price, multiplied by (b) such deficiency amount. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

9.3 Termination for Low Rolling Monthly Availability

Notwithstanding anything to the contrary contained herein, during the Delivery Term, should the weighted average of the Rolling Monthly Availabilities be less than _____ Percent (___%), Buyer shall have the right for a period of _____ (___) Days after the end of the applicable Month in which such event occurred, to terminate this Agreement without liability of either Party, and the Settlement Amount shall be zero (0), except with respect to claims or liability previously accrued hereunder.

**ARTICLE 10
BILLING AND PAYMENT**

10.1 Billing and Payment

Seller shall prepare and render to Buyer by the fifteenth (15th) Day after the end of each Billing Period a statement detailing Seller’s calculation of the payments due to Seller for such Billing Period. If the fifteenth (15th) Day of any Month is not a Business Day, Seller shall render the Monthly statement on or before the next succeeding Business Day.

10.2 Payment Timing and Method

Payment of any amount owed hereunder shall be made by wire transfer of funds immediately available in an account designated in accordance with Section 19.2 on or before the tenth (10th) Day following receipt by Buyer of Seller’s invoice.

10.3 Netting and Disputes

(a) Payments owed by Seller to Buyer for each Billing Period shall be netted against any amounts owed by Buyer that Month or made by wire transfer of funds immediately available in an account of Buyer, as designated by Buyer, on or before the tenth (10th) Day following receipt by Buyer of Seller’s invoice. If the amount owed by Seller to Buyer is in excess of the amounts available for setoff, then Seller shall make payment to Buyer of all amounts owing after setoff on or before the tenth (10th) Day following receipt by Buyer of Seller’s invoice.

(b) Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but

excluding the date the delinquent amount is paid in full. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 10.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month, the right to payment for such performance is waived.

10.4 Currency and Timing of Payment

Notwithstanding anything contained herein, (i) all payments to be made by either Party hereunder shall be made in Dollars by wire transfer of funds immediately available in an account of the Party making such payment and (ii) any payment that becomes due and payable on a Day that is other than a Business Day or a Day on which banks are closed in New York, New York shall be paid on the next succeeding Business Day.

10.5 Verifying Documentation

Each Party will promptly comply with any request by the other Party that such Party provide to the requesting Party or requesting Party's agent copies of documents, records or data of the other Party that are reasonably necessary to enable the requesting Party or its agent to verify or substantiate any claim, charge or calculation made by the other Party pursuant to the terms hereof. Each Party will maintain records relating to its respective performance hereof in accordance with reasonable document retention policies and Prudent Industry Practices.

10.6 Interest Rate

If any payment due from either Party hereunder shall not be paid when due, there shall be due and payable to the other Party compensation thereon, calculated at a rate equal to Two Percent (2%) over the prime rate published in the "Money Rates" section of The Wall Street Journal, as of the Day payment became overdue ("Interest Rate"), from the date on which such payment became overdue to and until such payment is paid in full.

10.7 Credit Support

Neither Party shall be required to provide credit support to the other party hereunder.

**ARTICLE 11
REPRESENTATIONS AND WARRANTIES**

11.1 Representations and Warranties of Seller

Seller represents and warrants to Buyer that as of the Effective Date and the date on which the Delivery Term commences:

(a) Seller is a corporation organized, validly existing and in good standing under the Laws of the state of Delaware and is qualified and in good standing in each other jurisdiction where the failure so to qualify would have a material adverse effect upon the business or financial condition of Seller and Seller has all power and authority to conduct its business, and to execute, deliver and perform its obligations hereunder;

(b) Seller's execution, delivery, and performance of its obligations hereunder have been duly authorized by all necessary corporate action and do not and will not:

(i) as to execution and delivery, require any consent or approval that has not been obtained and each such consent and approval that has been obtained is in full force and effect,

(ii) violate any provision of any Law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award having applicability to Seller or any provision of the articles of incorporation or other constituent documents of Seller, the violation of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations hereunder;

(iii) result in a breach of or constitute a default under any provision of Seller's articles of incorporation;

(iv) result in a breach of or constitute a default under any agreement relating to Seller's management or affairs nor any indenture, loan or credit agreement, nor any other agreement, lease, or instrument to which Seller is a party or by which Seller may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on Seller's ability to perform its obligations hereunder;

(c) this Agreement constitutes Seller's legal, valid and binding obligation enforceable against Seller in accordance with its terms;

(d) there is no pending or, to the best of Seller's knowledge, threatened action or proceeding affecting Seller before any court, Governmental Agency or arbitrator that could reasonably be expected to materially and adversely affect Seller's financial condition or operations or its ability to perform its obligations hereunder, or that purports to affect the legality, validity or enforceability hereof;

(e) throughout the Delivery Term hereof, Seller has and will maintain all necessary Approvals and perform its obligations hereunder;

(f) as of the Effective Date, the Designated Unit is within Buyer's Control Area and that Seller shall not remove or move the Designated Unit from the Control Area during the Delivery Term;

(g) throughout the Delivery Term hereof, Seller has all necessary rights with respect to the Designated Unit to perform its obligations hereunder and has good and merchantable title to all energy delivered hereunder; and

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

11.2 Representations and Warranties of Buyer

Buyer represents and warrants to Seller that as of the Effective Date and the date on which the Delivery Term commences:

(a) Buyer is a limited liability company duly organized and validly existing and in good standing under the Laws of the state of Louisiana and has the full legal right, power and authority to execute, deliver and perform its obligations hereunder;

(b) Buyer's execution, delivery, and performance of its obligations hereunder have been duly authorized by all necessary limited liability company action and do not and will not:

(i) as to execution, delivery, and performance require any consent or approval of Buyer's member that has not been obtained and each such consent and approval that has been obtained is in full force and effect;

(ii) violate any provision of any Law, rule, regulation, order, writ, judgment, injunction, decree, determination, or award having applicability to Buyer, the violation of which could reasonably be expected to have a material adverse effect on the ability of Buyer to perform its obligations hereunder;

(iii) result in a breach of or constitute a default under any provision of the Buyer's operating agreement;

(iv) result in a breach of or constitute a default under any agreement relating to the management or affairs of Buyer or any indenture or loan or credit agreement or any other agreement, lease, or instrument to which Buyer is a party, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of Buyer to perform its obligations hereunder;

(c) this Agreement constitutes a legal, valid and binding obligation of Buyer and is enforceable against Buyer in accordance with its terms;

(d) there is no pending or, to the best of Buyer's knowledge, any threatened action or proceeding affecting Buyer before any court, Governmental Agency or arbitrator that could reasonably be expected to materially and adversely affect the financial condition or operations of Buyer or the ability of Buyer to perform its obligations hereunder, or that purports to affect the legality, validity or enforceability hereof, except for the certification proceeding that Buyer has commenced or will commence before the LPSC;

(e) throughout the Delivery Term hereof, Buyer has and will maintain all Approvals necessary for it to perform its obligations hereunder; and

(f) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

ARTICLE 12 TAXES

12.1 Cooperation to Minimize Taxes

Each Party shall each use Commercially Reasonable Efforts to implement the provisions of, and to administer, this Agreement in a manner expected to minimize Taxes, so long as neither Party is materially adversely affected by such efforts. Each Party shall provide the other Party upon written request a certificate of exemption or other reasonably satisfactory evidence of exemption if any exemption from or reduction of any Tax is applicable. Each Party shall exercise Commercially Reasonable Efforts to obtain and to cooperate in obtaining any exemption from or reduction of any Tax.

12.2 Obligations Regarding Taxes

Seller shall pay or cause to be paid all Taxes on or with respect to any Product or this Agreement arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to any Product or this Agreement at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Taxes (for example the Louisiana fuel tax) that are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Taxes. If Buyer is required by law or regulation to remit or pay Taxes that are Seller's responsibility hereunder, Buyer may deduct the amount of any such Taxes from the sums due to Seller under ARTICLE 8 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Taxes for which it is exempt under the law.

12.3 Fuel Tax Adder Exception

The Parties acknowledge that (a) the only exception to the allocation of Taxes as set forth in Section 12.2 is the Fuel Tax Adder and (b) nothing in this ARTICLE 12 shall be deemed to relieve Buyer of its obligation to pay amounts calculated using the Fuel Tax Adder.

ARTICLE 13 FORCE MAJEURE EVENT

13.1 Force Majeure Event Defined

As used herein, “Force Majeure Event” shall mean an event or circumstance that prevents a Party (the “Claiming Party”) from performing its obligations hereunder, which event or circumstance was not reasonably anticipated as of the Effective Date, that is not within the reasonable control of or the result of the fault or negligence of the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Notwithstanding the foregoing, a claim of a Force Majeure Event may not be based, in whole or in part, on (i) increased costs of operating Seller’s Generating Facility or obtaining Other Source Energy, (ii) Seller’s ability to sell any Product sold hereunder at a price greater than the price provided for herein, (iii) Buyer’s loss of markets, retail load, or customers, (iv) Buyer’s inability economically to use or resell any Product purchased hereunder, (v) Buyer’s ability to acquire any Product (or similar product) at a price less than the price provided for herein, (vi) curtailment by a Transmission Provider, NERC security coordinator or any other entity having authority over the relevant Control Area unless the Claiming Party has contracted for firm transmission service and firm transmission has been curtailed, and (vii) failure or breakage of, or damage to, the Seller’s Generating Facility’s equipment or facilities including unscheduled Forced Outage of same, not the direct or proximate result of acts of God, which acts of God shall include but not be limited to flood, drought, earthquake, storm, hurricane, tornado or lightning; epidemic; war; riot; civil disturbance; arson; or sabotage; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure Event absent a showing of other facts and circumstances that in the aggregate with such factors establish that a Force Majeure Event as defined in the first sentence hereof has occurred.

13.2 Applicability of Force Majeure Event

Neither Party shall be responsible or liable for any delay or failure in its performance and shall be excused for breach or liability for any delay or failure in its performance hereunder if such delay or failure is due to a Force Majeure Event, provided that:

(a) the Claiming Party shall give the other Party prompt, written notice of such Force Majeure Event as soon as practicable after discovery of such event, with details to be supplied as soon as practicable further describing the particulars of the occurrence of the Force Majeure Event;

(b) any suspension of performance shall be of no greater scope and of no longer duration than is directly caused by the Force Majeure Event;

(c) both Parties shall cooperate and use Commercially Reasonable Efforts to remedy or mitigate the causes or effects of any Force Majeure Event and the Claiming Party shall provide progress reports to the other Party as requested but at least weekly, describing actions taken to remedy the consequences of the Force Majeure Event and requesting any assistance it needs from the non-Claiming Party; and

(d) when the Claiming Party is able to resume performance of its obligations hereunder, that Party shall give the other Party prompt, written notice to that effect.

13.3 Impact on Payment Obligations

Except as set forth in this Section 13.3, the occurrence of a Force Majeure Event in which the Buyer is the affected Party shall not excuse any obligation to make any payment that is otherwise due and payable. To the extent the Designated Unit is Unit Firm Unavailable due to a Force Majeure Event, and Seller does not provide Delivered Energy therefore, then the Capacity Payment shall be reduced as provided in Section 8.2.

To the extent that Seller (i) shall be prevented for 8760 times Contract Capacity Equivalent Force Majeure Hours during the Delivery Term from performing its obligations under this Agreement, including the provision of Other Source Energy due to a Force Majeure Event after such performance is interrupted, or (ii) either Party ceases to cooperate and use Commercially Reasonable Efforts to remedy or mitigate the causes or effects of any Force Majeure Event, either Party may in any such case terminate this Agreement without liability of either Party, and the Settlement Amount shall be zero (0), except with respect to claims or liability previously accrued hereunder.

ARTICLE 14 TERMINATION AND DEFAULT

14.1 Event of Default

The occurrence of any one of the following shall constitute an Event of Default with respect to either Party (or one Party, as applicable):

(a) such Party fails to make payments for undisputed amounts due hereunder to the other Party within three (3) Business Days after the applicable due date;

(b) such Party fails to comply with any material provision hereof (other than the obligation that is the subject of another Event of Default under this Section 14.1(a)), and such failure shall continue uncured for ten (10) Days after notice thereof by the other Party to the extent that such failure is curable, provided that such Party is using Commercially Reasonable Efforts to pursue such cure and provided further, if such failure is not capable of being cured within such period of ten (10) Days with the exercise of reasonable diligence, then such cure period shall be extended for an additional reasonable period of time (not to exceed twenty (20) Days) so long as such Party is exercising Commercially Reasonable Efforts to cure such failure; provided, however, with respect to any unexcused failure (A) of either Party to deliver or receive energy for which the other Party shall have received timely any payment or credit pursuant to the

terms of ARTICLE 9, or (B) of Seller to make available the Contract Capacity or the Designated Unit to the extent required hereunder for which Buyer shall have received timely adjustment of the Capacity Payment pursuant to the terms of Section 8.2, such timely payment, credit, or adjustment shall be the sole and exclusive remedy of such other Party (in the case of (A), above) or of Buyer (in the case of (B), above), except to the extent the provisions of Section 9.3 termination for low Rolling Monthly Availability or Section 13.3 termination for persistent force majeure may apply;

(c) Such Party becomes Bankrupt;

(d) Any representation made by Such Party under ARTICLE 11 was false in any material respect when made, shall have had a material adverse effect on the Other Party, and such failure shall not be cured within fifteen (15) Days after notice thereof by the Other Party;

(e) Such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another Person and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee Person fails to assume all the obligations of such Party hereunder by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

14.2 Remedies

(a) If an Event of Default with respect to a defaulting Party ("Defaulting Party") shall have occurred and be continuing and all applicable cure periods shall have expired, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a Day, no earlier than the Day such notice to the Defaulting Party is effective and no later than twenty (20) Days after such notice is effective, as an early termination date (the "Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all obligations hereunder, (ii) to withhold any payments due to the Defaulting Party hereunder, and (iii) to suspend its performance hereunder. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount as of the Early Termination Date.

(b) The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by netting out (i) all Settlement Amounts that are due to the Defaulting Party, plus any or all other amounts due to the Defaulting Party hereunder against, (ii) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party hereunder, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

(c) As soon as practicable after a liquidation and termination, notice shall be given by the Non-Defaulting Party to the Defaulting Party, including the amount, if any, of the Termination Payment. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be payable within two (2) Business Days after such notice is effective.

(d) If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within ten (10) Business

Days after receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer performance assurance to the Non-Defaulting Party in an amount equal to the Termination Payment in a form satisfactory to the Non-Defaulting Party in its commercially reasonable discretion.

(e) After calculation of a Termination Payment in accordance with this Section, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party. The remedy provided for hereunder shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

(f) In addition to the foregoing, upon the occurrence of any Event of Default and the expiration of any applicable cure period, the Non-Defaulting Party shall be entitled to (i) commence an action to require the Defaulting Party to remedy such default and specifically perform its duties and obligations hereunder in accordance with the terms and conditions hereof, (ii) exercise the rights and remedies expressly set forth herein. The remedies expressly set forth herein are the exclusive remedies of both Parties, and all other remedies are hereby excluded.

14.3 Suspension of Performance

Notwithstanding any other provision hereof, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance hereunder; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless an Early Termination Date shall have been declared and notice thereof pursuant to Section 16.2(a) given, and (ii) to the extent an Event of Default shall have occurred and be continuing, to exercise any remedy available at law or in equity.

ARTICLE 15 INDEMNIFICATION AND LIMITATION ON LIABILITY

15.1 Indemnity

Each Party shall be responsible for and shall indemnify, defend and hold the other Party harmless from and against all loss, cost and expense, including court costs and reasonable attorney fees, for any claims, suits, judgments, demands, actions, penalties or liabilities to the extent arising out of the indemnifying Party's negligent acts or omissions or arising with respect to energy delivered or to be delivered hereunder while such indemnifying Party holds title to such energy. Each Party shall indemnify, defend and hold harmless the other Party against any Taxes for which such Party is responsible under ARTICLE 12. Neither Party shall be liable with respect to any claim to the extent the same resulted from the gross negligence, willful misconduct or bad faith of the indemnified Party.

15.2 Limitations

(a) EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

(b) THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

(c) IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

(d) UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

(e) TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED OR "FIRM LD", THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. EACH PARTY HEREBY WAIVES ANY RIGHT TO CLAIM THAT SUCH LIQUIDATED OR "FIRM LD" DAMAGES ARE VOID AS PENALTIES.

**ARTICLE 16
DISPUTE RESOLUTION**

16.1 Senior Officers

(a) If any dispute arises hereunder, such dispute shall be referred by each Party to a senior officer designated by Seller and a senior officer designated by Buyer for resolution upon five (5) Days' written notice from either Party. Any dispute that may arise in connection

herewith that cannot be resolved within thirty (30) Days, (seven (7) Days in the case of any controversy of ____ Million Dollars (\$_____) or less or any controversy concerning an interpretation of the rights or obligations of the Parties hereunder) following submission to senior officers shall be settled by arbitration in Houston, Texas, or in any other mutually-agreed location, in accordance with Section 16.2.

(b) The Parties hereto agree (i) to attempt to resolve all disputes arising hereunder promptly, equitably and in a good faith manner, and (ii) to provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any such dispute.

16.2 Arbitration

(a) If the Parties cannot agree, such failure to agree shall be deemed a dispute and the dispute shall be determined by arbitration upon Notice of submission given by either Party to the other except to the extent the Parties are required by Law to resolve such dispute solely before any Government Agency, in which case the dispute shall be decided by such Government Agency to the extent required by Law. Said Notice shall name one arbitrator and shall include a precise statement by such Party of the dispute. Within fifteen (15) Days (five (5) Days in the case of any controversy of ____ Million Dollars (\$_____) or less or any controversy concerning interpretation of the rights or obligations of the Parties hereunder) after the receipt of such Notice, the other Party shall also submit a precise statement of the dispute and name a second arbitrator. The two (2) arbitrators so named shall agree on a third arbitrator. If the two (2) arbitrators so mentioned are unable within a further fifteen (15) Days (five (5) Days in the case of any controversy of ____ Million Dollars (\$_____) or less or any controversy concerning interpretation of the rights or obligations of the Parties hereunder) to agree upon a third arbitrator, the third arbitrator shall be appointed upon the application of either Party, by the Senior Judge (in service) of the United States District Court for the Southern District of New York. If such Senior Judge cannot or will not appoint the third arbitrator, such arbitrator shall be selected in accordance with the American Arbitration Association Commercial Dispute Resolution Procedures. The arbitrators selected to act hereunder shall be qualified by education and experience to decide the particular controversy in dispute. The arbitrators shall promptly request from each Party a written proposal with respect to the resolution of the dispute, each of which proposals must be limited to the resolution of the specific controversy in question and consistent with the limitations on damages and other provisions hereof, and shall be submitted in confidence to the arbitrator and served on the other Party within fifteen (15) Days (five (5) Days in the case of any controversy of ____ Million Dollars (\$_____) or less or any controversy concerning interpretation of the rights or obligations of the Parties hereunder). Not later than sixty (60) Days (ten (10) Days in the case of any controversy of ____ Million Dollars (\$_____) or less or any controversy concerning interpretation of the rights or obligations of the Parties hereunder) following the submission and service of proposals, the arbitrators shall select without modification the proposal most fairly resolving the dispute, and the proposal selected by a majority of the arbitrators shall be the decision of the panel. The arbitrators shall not be restricted from taking into account relevant facts or circumstances not made a part of the proposals. The decision of the arbitrators made in writing shall be final and binding upon the Parties hereto and judgment may be entered thereon in any court of competent jurisdiction. It is agreed that (i) all aspects of the arbitration, and any award shall be held

confidential by the Parties and the arbitrators, and (ii) the award and judgment of the arbitrators shall have no binding or precedential effect with respect to any other controversy not before the arbitrators, whether or not similar to or related to the specific controversy decided by the arbitrators. The expenses of arbitration, including reasonable compensation to the arbitrator, shall be borne equally by the Parties hereto, except that each Party shall bear the compensation and expenses of its own counsel and employees.

(b) If the Parties shall agree, in the case of any controversy involving _____ Million Dollars (\$_____) or less or any controversy concerning interpretation of the rights or obligations of the parties hereunder, there shall be only one (1) arbitrator, who shall be designated and agreed upon in writing by the Parties from time to time, and whose decision reached in conformity with the procedures set forth in this Section 16.2(b) shall be final and binding. Except for the number of arbitrators, all provisions of this Section shall be applicable to the arbitration of such controversy.

ARTICLE 17 CONDITIONS

17.1 Conditions Precedent

(a) Subject to Section 19.3 and except to the extent waived in writing by Buyer in its sole and absolute discretion, the obligation of Buyer to consummate the transactions contemplated hereunder shall be subject to fulfillment of the following conditions prior to the date on which the Delivery Term commences:

(i) LPSC Approval: Buyer files this Agreement with the LPSC, and LPSC certifies and authorizes this Agreement prior to the date on which the Delivery Term commences, and Buyer receives ratemaking treatment for this Agreement in its LPSC jurisdictional rates satisfactory to Buyer in its sole judgment and discretion, without any limitation thereto whatsoever. Buyer shall use its best efforts to obtain the LPSC's approval hereof and Seller shall use its Commercially Reasonable Efforts to cooperate with Buyer's obtaining the same. If LPSC approval or acceptance cannot be obtained, Buyer and Seller shall use their Commercially Reasonable Efforts negotiate in good faith such reasonable modifications hereto as may be necessary to secure the approval hereof, provided that the economic benefit for any one Party shall not be reduced thereby; and

(ii) Network Resource: Buyer shall use Commercially Reasonable Efforts to obtain certification of the Designated Unit as under contract to Buyer pursuant to this Agreement as a Network Resource.

(b) In the event the foregoing conditions are not satisfied and Buyer does not waive the conditions prior to the date on which the Delivery Term commences, this Agreement shall terminate without liability of either Party, and the Settlement Amount shall be zero (0), except with respect to claims or liability previously accrued hereunder.

17.2 Cooperation of Seller and Buyer

Commencing on the Effective Date, on the terms and subject to the conditions hereof, each Party shall use its Commercially Reasonable Efforts to take, or cause to be taken, all appropriate action, and do, or cause to be done, and assist and cooperate with the other Party in taking or doing, all things necessary, proper or advisable to seek to obtain necessary Approvals and to consummate the transactions contemplated hereby.

ARTICLE 18 CERTAIN REGULATORY MATTERS

18.1 Mobile-Sierra Clause

Neither Party shall file with FERC any proposed change in any rate, term or condition set forth herein. The Parties intend that the standard of review that shall apply to any application for a change in the Agreement, whether proposed by a complainant or FERC acting *sua sponte*, shall be the “public interest” standard of review delineated in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and in *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

18.2 RTO Changes

(a) Each Party hereby further covenants that, should an independent system operator or a regional transmission organization (collectively, “RTO”) enact or implement any change in law, rule, regulation, tariff or practice binding on Seller or Buyer that materially adversely affects such Party’s ability to perform its obligations hereunder, the Parties shall negotiate in good faith an amendment hereto or take other appropriate action the effect of which is to restore each Party, as closely as practicable, to its same position as prior to such change. If, within sixty (60) days, the Parties are unable to agree on such amendment or such other appropriate action each Party will continue to perform its obligations hereunder to the maximum extent possible, taking all reasonable steps to mitigate the effect of such change on each other.

(b) With respect to any implementation or formation of an RTO, the Parties specifically agree:

(i) the formation of any RTO does not affect the legality, enforceability or binding nature of this Agreement; and

(ii) the rights, responsibilities and existing risk allocation as between Buyers and Sellers hereunder prior to any RTO formation should be maintained to the extent feasible within the RTO structure.

**ARTICLE 19
MISCELLANEOUS**

19.1 Assignment

Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any Person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

19.2 Notices

Except as otherwise specified herein, any notice, demand for information or documents required or authorized by this Agreement to be given to a Party shall be given in writing and shall be sufficiently given if delivered by overnight courier or hand delivered against written receipt or by email or other electronic transmission or by facsimile transmission addressed as set forth in Schedule 19.2, or to such other address as such Party may designate for itself by notice given in accordance with this Section 19.2 and to the addresses set forth in Schedule 19.2. Notice by facsimile, electronic mail or other electronic transmission or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight mail or courier shall be effective on the next Business Day after it was sent.

19.3 Choice of Law

This Agreement shall be governed by, and construed in accordance with, the Law of the State of Louisiana. Each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

19.4 Entire Agreement

This Agreement constitutes the entire understanding between the Parties and supersedes any and all previous understandings between the Parties with respect to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

19.5 Waiver

Any term or condition hereof may be waived at any time by the Party hereto that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. The failure or delay of either Party to require performance by the other Party of any provision hereof shall not affect its right to require performance of such provision unless and until such performance has been waived by such Party in writing in accordance with the terms hereof. No waiver by either Party of any term or condition hereof, in any one or more instances, shall be deemed to be or construed as a waiver of the same or any other term or condition hereof on any future occasion.

19.6 Modification or Amendment

No modification, amendment or waiver of any provision hereof shall be valid unless it is in writing and signed by both Parties.

19.7 Severability

If any term or provision hereof or the application thereof to any Person or circumstance is held to be illegal, invalid or unenforceable under any present or future Law or by any Governmental Agency:

- (a) such term or provision shall be fully severable;
- (b) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof;
- (c) the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and
- (d) the Parties shall negotiate in good faith to agree upon legal, valid and enforceable substitute provisions to carry out the purposes and intent of the illegal, invalid or unenforceable terms and provisions.

19.8 Counterparts

This Agreement may be executed in counterparts, all of which shall constitute one (1) agreement binding on both Parties hereto and shall have the same force and effect as an original instrument, notwithstanding that both Parties may not be signatories to the same original or the same counterpart.

19.9 Confidentiality

To the extent possible, subject to relevant FERC regulations, all commercial terms disclosed herein, previously disclosed or otherwise disclosed in connection herewith shall be maintained confidential for two (2) years after execution hereof and such commercial terms shall be subject to protective barriers for any marketing affiliates or divisions of Seller; provided,

however, that Buyer may disclose of the transaction to the LPSC as Buyer, in good faith, determines necessary to secure the LPSC's authorization hereof, and that either party may disclose this Agreement to the extent required by governmental authorities. If it is necessary to disclose this Agreement to any governmental authority, the disclosing Party shall notify the non-disclosing Party and the disclosing Party shall seek the maximum protection of confidentiality such governmental authority will permit.

19.10 Independent Contractors

The Parties are independent contractors. Nothing contained herein shall be deemed to create an association, joint venture, partnership or principal/agent relationship between the Parties hereto or to impose any partnership obligation or liability on either Party. Neither Party shall have any right, power or authority to enter into any agreement or commitment, act on behalf of, or otherwise bind the other Party in any way.

19.11 Forward Contract

The Parties acknowledge and agree that this Agreements constitutes a "forward contract" within the meaning of the United States Bankruptcy Code.

19.12 Third Parties

This Agreement is intended solely for the benefit of the Parties. Nothing herein shall be construed to create any duty or liability to, or standard of care with reference to, any other Person.

19.13 Headings

The headings contained herein are solely for the convenience of the Parties and should not be used or relied upon in any manner in the construction or interpretation hereof.

19.14 Joint Authorship

This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, drafting, negotiation, or execution hereof.

19.15 Survival of Indemnity and Audit Rights

The end of the Delivery Term shall not terminate obligations of the parties that by their nature survive the end of the Delivery Term, including without limitation, all indemnity, confidentiality, record keeping and audit rights..

19.16 Operating Representatives

Prior to the Delivery Term, each Party shall designate a representative for purposes of administering this Agreement (each such representative, an "Operating Representative"), by notice to the other Party specifying the designee's name, telephone and fax numbers and e-mail

address. A Party may change its Operating Representative upon similar notice to the other Party. The duties and responsibilities of the Operating Representatives shall include serving as the primary contacts for the administration hereof and for establishing and maintaining procedures for such administration and for coordinating the schedule for Permitted Planned Outages. The Operating Representatives shall have no authority to amend or otherwise modify this Agreement or bind their respective Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

CLECO POWER LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

SCHEDULE 4.2-A

SELLER'S AVAILABILITY NOTICE

1. Generation Date: _____
2. Substation: _____
3. Issued By (Name) _____ (Signature) _____
- Issued At: _____ (Time and Date)

Hour Ending Available Energy (MW)

1:00
2:00
3:00
4:00
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6:00
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4. Comments:

SCHEDULE 4.2-B
SELLER'S SCHEDULE

1. Generation Date:
2. Substation: _____
3. Issued By: (Name)_____ (Signature)_____
4. Issued At: _____(Time and Date)
5. Monthly Designated Unit: _CT- and CT-_____

| Hour Ending | Designated Unit Energy | Other Source Energy | Total Energy to be Delivered |
|--------------------|-----------------------------------|--------------------------------|---|
| 1:00 | | | |
| 2:00 | | | |
| 3:00 | | | |
| 4:00 | | | |
| 5:00 | | | |
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Comments:

SCHEDULE 4.5(b)

“INTO CLECO” PROTOCOL

When Seller has elected to provide Other Source Energy using the Into Cleco Delivery Point, in accordance with the provisions set forth below, (1) such Other Source Energy shall be scheduled and delivered by Seller to an interconnection or interface (“Interface”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Other Source Energy is from a source of generation in that control area, which Interface, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area; and (2) Seller has the right on a daily prescheduled basis to designate the Interface where the Other Source Energy shall be delivered. An “Into Cleco” Product shall be subject to the following provisions:

1. Prescheduling and Notification. Subject to the provisions of Section 6 below, not later than the prescheduling deadline of 11:00 a.m. CPT on the Business Day before the next delivery day or as otherwise agreed to by Buyer and Seller, Seller shall notify Buyer (“Seller’s Notification”) of Seller’s immediate upstream counterparty and the Interface (the “Designated Interface”) where Seller shall deliver the Product for the next delivery day, and Buyer shall notify Seller of Buyer’s immediate downstream counterparty (retail customers).

2. Availability of “Firm Transmission” to Buyer at Designated Interface; “Timely Request for Transmission”, “ADI” and “Available Transmission”. In determining availability to Buyer of next-day firm transmission (“Firm Transmission”) from the Designated Interface, a “Timely Request for Transmission” shall mean a properly completed request for Firm Transmission made by Buyer in accordance with the controlling tariff procedures, which request shall be submitted to the Receiving Transmission Provider no later than thirty (30) minutes after delivery of Seller’s Notification, provided, however, if the Receiving Transmission Provider is not accepting requests for Firm Transmission at the time of Seller’s Notification, then such request by Buyer shall be made within 30 minutes of the time when the Receiving Transmission Provider first opens thereafter for purposes of accepting requests for Firm Transmission.

Pursuant to the terms hereof, delivery of the Product may under certain circumstances be redesignated to occur at an Interface other than the Designated Interface (any such alternate designated interface, an “ADI”) either (a) on the Receiving Transmission Provider’s transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which ADI, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area using either firm or non-firm transmission, as available on a day-ahead or hourly basis (individually or collectively referred to as “Available Transmission”) within the Receiving Transmission Provider’s transmission system.

3. Rights of Buyer and Seller Depending Upon Availability of/Timely Request for Firm Transmission.

A. Timely Request for Firm Transmission made by Buyer, Accepted by the Receiving Transmission Provider and Purchased by Buyer. If a Timely Request for Firm Transmission is made by Buyer and is accepted by the Receiving Transmission Provider and Buyer purchases such Firm Transmission, then Seller shall deliver and Buyer shall receive the Product at the Designated Interface.

i. If the Firm Transmission purchased by Buyer within the Receiving Transmission Provider's transmission system from the Designated Interface ceases to be available to Buyer for any reason, or if Seller is unable to deliver the Product at the Designated Interface for any reason except Buyer's non-performance, then at Seller's choice from among the following, Seller shall: (a) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, require Buyer to purchase such Firm Transmission from such ADI, and schedule and deliver the affected portion of the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, or (b) require Buyer to purchase non-firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by Seller, or (c) to the extent firm transmission is available on an hourly basis, require Buyer to purchase firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of such hourly firm transmission from the Designated Interface or an ADI designated by Seller.

ii. If the Available Transmission utilized by Buyer as required by Seller pursuant to Section 3A(i) ceases to be available to Buyer for any reason, then Seller shall again have those alternatives stated in Section 3A(i) in order to satisfy its obligations.

iii. Seller's obligation to schedule and deliver the Product at an ADI is subject to Buyer's obligation referenced in Section 4B to cooperate reasonably therewith. If Buyer and Seller cannot complete the scheduling and/or delivery at an ADI, then Buyer shall be deemed to have satisfied its receipt obligations to Seller and Seller shall be deemed to have failed its delivery obligations to Buyer, and Seller shall be liable to Buyer for amounts determined pursuant to ARTICLE 9.

iv. In each instance in which Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI pursuant to Sections 3A(i) or (ii), and Firm Transmission had been purchased by both Seller and Buyer into and within the Receiving Transmission Provider's transmission system as to the scheduled delivery which could not be completed as a result of the interruption or curtailment of such Firm Transmission, Buyer and Seller shall bear their respective transmission expenses and/or associated congestion charges incurred in connection with efforts to complete delivery by such alternative scheduling and delivery arrangements. In any instance except as set forth in the immediately preceding sentence, Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an

ADI under Sections 3A(i) or (ii), Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with such alternative scheduling arrangements.

B. Timely Request for Firm Transmission Made by Buyer but Rejected by the Receiving Transmission Provider. If Buyer's Timely Request for Firm Transmission is rejected by the Receiving Transmission Provider because of unavailability of Firm Transmission from the Designated Interface, then Buyer shall notify Seller within 15 minutes after receipt of the Receiving Transmission Provider's notice of rejection ("Buyer's Rejection Notice"). If Buyer timely notifies Seller of such unavailability of Firm Transmission from the Designated Interface, then Seller shall be obligated either (1) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, to require Buyer to purchase (at Buyer's own expense) such Firm Transmission from such ADI and schedule and deliver the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, and thereafter the provisions in Section 3A shall apply, or (2) to require Buyer to purchase (at Buyer's own expense) non-firm transmission, and schedule and deliver the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by the Seller, in which case Seller shall bear the risk of interruption or curtailment of the non-firm transmission; provided, however, that if the non-firm transmission is interrupted or curtailed or if Seller is unable to deliver the Product for any reason, Seller shall have the right to schedule and deliver the Product to another ADI in order to satisfy its delivery obligations, in which case Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with Seller's inability to deliver the Product as originally prescheduled. If Buyer fails to timely notify Seller of the unavailability of Firm Transmission, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface, and the provisions of Section 3D shall apply.

C. Timely Request for Firm Transmission Made by Buyer, Accepted by the Receiving Transmission Provider and Not Purchased by Buyer. If Buyer's Timely Request for Firm Transmission is accepted by the Receiving Transmission Provider but Buyer elects to purchase non-firm transmission rather than Firm Transmission to take delivery of the Product, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to ARTICLE 9.

D. No Timely Request for Firm Transmission Made by Buyer, or Buyer Fails to Timely Send Buyer's Rejection Notice. If Buyer fails to make a Timely Request for Firm Transmission or Buyer fails to timely deliver Buyer's Rejection Notice, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have

failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to ARTICLE 9.

4. Transmission.

A. Seller's Responsibilities. Seller shall be responsible for transmission required to deliver the Product to the Designated Interface or ADI, as the case may be. It is expressly agreed that Seller is not required to utilize Firm Transmission for its delivery obligations hereunder, and Seller shall bear the risk of utilizing non-firm transmission. If Seller's scheduled delivery to Buyer is interrupted as a result of Buyer's attempted transmission of the Product beyond the Receiving Transmission Provider's system border, then Seller will be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for damages pursuant to ARTICLE 9.

B. Buyer's Responsibilities. Buyer shall be responsible for transmission required to receive and transmit the Product at and from the Designated Interface or ADI, as the case may be, and except as specifically provided in Section 3A and 3B, shall be responsible for any costs associated with transmission therefrom. If Seller is attempting to complete the designation of an ADI as a result of Seller's rights and obligations hereunder, Buyer shall co-operate reasonably with Seller in order to effect such alternate designation.

5. Force Majeure. Force Majeure shall apply as set forth in ARTICLE 13.

6. Multiple Parties in Delivery Chain Involving a Designated Interface. Seller and Buyer recognize that there may be multiple parties involved in the delivery and receipt of the Product at the Designated Interface or ADI to the extent that (1) Seller may be purchasing the Product from a succession of other sellers ("Other Sellers"), the first of which Other Sellers shall be causing the Product to be generated from a source ("Source Seller") and/or (2) Buyer may be selling the Product to a succession of other buyers ("Other Buyers"), the last of which Other Buyers shall be using the Product to serve its energy needs ("Sink Buyer"). Seller and Buyer further recognize that in certain transactions neither Seller nor Buyer may originate the decision as to either (a) the original identification of the Designated Interface or ADI (which designation may be made by the Source Seller) or (b) the Timely Request for Firm Transmission or the purchase of other Available Transmission (which request may be made by the Sink Buyer). Accordingly, Seller and Buyer agree as follows:

A. If Seller is not the Source Seller, then Seller shall notify Buyer of the Designated Interface promptly after Seller is notified thereof by the Other Seller with whom Seller has a contractual relationship, but in no event may such designation of the Designated Interface be later than the prescheduling deadline pertaining to the transaction between Buyer and Seller pursuant to Section 1.B. If Buyer is not the Sink Buyer, then Buyer shall notify the Other Buyer with whom Buyer has a contractual relationship of the Designated Interface promptly after Seller notifies Buyer thereof, with the intent being that the party bearing actual responsibility to secure transmission shall have up to thirty

(30) minutes after receipt of the Designated Interface to submit its Timely Request for Firm Transmission.

C. Seller and Buyer each agree that any other communications or actions required to be given or made in connection with this “Into Product” (including without limitation, information relating to an ADI) shall be made or taken promptly after receipt of the relevant information from the Other Sellers and Other Buyers, as the case may be.

D. Seller and Buyer each agree that in certain transactions time is of the essence and it may be desirable to provide necessary information to Other Sellers and Other Buyers in order to complete the scheduling and delivery of the Product. Accordingly, Seller and Buyer agree that each has the right, but not the obligation, to provide information at its own risk to Other Sellers and Other Buyers, as the case may be, in order to effect the prescheduling, scheduling and delivery of the Product.

SCHEDULE 8.2-A

**DAILY SUMMARY OF AVAILABILITY NOTICE, NET ELECTRICAL
OUTPUT, OTHER SOURCE ENERGY, AND DELIVERED ENERGY**

| Hour Ending | Designated Unit | Schedule Other Source | Delivered Energy Total* |
|--------------------|------------------------|----------------------------------|------------------------------------|
| 1:00 | | | |
| 2:00 | | | |
| 3:00 | | | |
| 4:00 | | | |
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| 20:00 | | | |
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| 24:00 | | | |
| Total | | | |

* Includes energy deemed to be delivered pursuant to the definition of "Delivered Energy".

SCHEDULE 8.2-B

**MONTHLY SUMMARY OF AVAILABILITY NOTICE,
SCHEDULE, AND DELIVERED ENERGY**

| Month | Day | Availability Notice 4.2(a) | | | Schedule 4.2(b) | | Delivered Energy* |
|-------|-------|----------------------------|---------------------|---------------------|--------------------|-----------------|-------------------|
| | | Product 1 Energy | Product 2 Energy | Product 3 Energy | Designated Unit | Other Source | Total |
| | 1 | | | | | | |
| | 2 | | | | | | |
| | 3 | | | | | | |
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| | 28 | | | | | | |
| | 29 | | | | | | |
| | 30 | | | | | | |
| | 31 | | | | | | |
| | Total | | | | | | |

* Includes energy deemed to be delivered pursuant to the definition of "Delivered Energy".

SCHEDULE 8.2-C

EXAMPLE CAPACITY PAYMENT ADJUSTMENT CALCULATIONS

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SCHEDULE 9.3

ROLLING MONTHLY AVERAGE

SCHEDULE 19.2

NOTICES

The addresses for the delivery of notices and bills to each Party and the respective telephone and facsimile numbers, unless revised by either Party, are as follows:

For Seller to receive Notices and Correspondence:

Notices:

Phone: _____
Facsimile: _____

Tax ID: _____
DUNS: _____

Scheduling:

Attn: _____
Phone: _____
Facsimile: _____

Payments:

Attn: _____
Phone: _____
Facsimile: _____

Credit and Collections:

Attn: _____
Phone: _____
Facsimile: _____

With Additional Notices of an Event of Default to:

Attn: Legal Department
Facsimile: _____

Invoices:

Attn: _____

Phone: _____

Facsimile: _____

Confirmations:

Attn: _____

Phone: _____

Facsimile: _____

Wire Transfer:

BNK: _____

ABA: _____

ACCT: _____

Option Exercise:

Phone: _____

For Buyer to receive Notices and Correspondence:

All Notices:

Cleco Power LLC
2030 Donahue Ferry Rd
Pineville, Louisiana 71360
Attn: General Manager, Retail Operations
Phone: (318) 484-4939
Facsimile: (318) 484-4935

Cleco Power LLC
Duns: 62-778-1503
Federal Tax ID Number: 72-0244480

Scheduling (Current Day):

Attn: Resource Coordinator
Phone: (318) 484-4910
Facsimile: (318) 484-4935

Payments:

Cleco Power LLC
2030 Donahue Ferry Rd
Pineville, Louisiana 71360
Attn: Cleco Support Group LLC, Manager, Back
Office and Energy Accounting
Phone: (318) 484-4923
Facsimile: (318) 484-4940

With Additional Notices of an Event of Default to:

Cleco Support Group LLC
2030 Donahue Ferry Rd
Pineville, Louisiana 71360
Attn: Senior Vice President and General Counsel
Phone: (318) 484-7701
Facsimile: (318) 484-7685

Invoices:

Cleco Support Group LLC
2030 Donahue Ferry Rd
Pineville, Louisiana 71360
Attn: Manager, Back Office and Energy Accounting
Phone: (318) 484-4923
Facsimile: (318) 484-4940

Scheduling (Day-ahead):

Attn: Supervisor, Resource Coordination
Phone: (318) 484-4947
Facsimile: (318) 484-4935

Wire Transfer:

BNK:
ABA:
ACCT: