



Department of Energy
Washington, DC 20585

APR 11 2018

Mindy Goldstein
Turner Environmental Law Clinic
Emory University School of Law
1301 Clifton Road
Atlanta, GA 30322

Via email: magolds@emory.edu

Re: HQ-2018-00342-F

Dear Ms. Goldstein:

This is in final response to the request for information that you sent to the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You requested:

Records related to DOE's conditional commitment to provide Georgia Power Company, Municipal Electric Authority of Georgia (or its subsidiaries), and Oglethorpe Power Corporation with \$3.7 billion in additional loan guarantees for two new reactors at Plant Vogtle (the "conditional loan guarantees"), as announced by DOE on September 29, 2017. Specifically, we request records of:

- 1) Executed term sheets for the conditional loan guarantees committed to Georgia Power Company, Oglethorpe Power Corporation, and Municipal Electric Authority of Georgia.
- 2) Any credit subsidy fee estimates for the conditional loan guarantees committee to Georgia Power Company, Oglethorpe Power Corporation, and Municipal Electric Authority of Georgia.

DOE issued a final determination for this request on February 7, 2018. On March 5, 2018, you appealed DOE's determination to the Office of Hearings and Appeals (OHA), Case No. FIA-18-0015. On March 15, 2018, OHA dismissed the appeal and informed you that our office was withdrawing its previous determination, issued on February 7, 2018, and would issue a new determination.

Your request was originally assigned to DOE's Loan Programs Office (LPO) to conduct a search of its files for responsive documents. DOE started its search on December 8, 2017, which is the cutoff date for responsive documents. DOE has completed its search and identified nine (9) documents responsive to your request. The documents are being released in their entirety.

The adequacy of the search may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to Director, Office of



of its directors, officers, employees, and agents with respect to misappropriation of trade secrets or infringement of intellectual property rights or similar claims, or (c) any other business activities of the Borrower; provided, however, that such release and indemnity shall not apply to the extent the loss, claim, damage, liability or other expense results directly from the gross negligence or willful misconduct of the Indemnified Person as determined by a final, non-appealable judgment of a court of competent jurisdiction. Each Indemnified Person (other than DOE) is an express and intended third party beneficiary hereunder.

7. Representations and Warranties

The Borrower represents and warrants to DOE as follows:

(a) it has all requisite corporate power and authority to execute, deliver, and perform its obligations in this Term Sheet, and it has duly executed and delivered this Term Sheet; and

(b) to its knowledge, its application for the Additional Loan Guarantee (including all exhibits thereto, the "**Application**") and its written responses to written due diligence questions from DOE and its consultants and counsel (other than any forward-looking information contained in the Application and such responses), are complete and, taken together as a whole, correct in all material respects and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make such statements contained therein not misleading in light of the circumstances under which such statements are made. Any forward-looking information contained in the Application and the written responses to written due diligence questions from DOE was prepared in good faith and based on assumptions that it believes to be reasonable.

8. Reimbursement of Expenses

The Borrower shall, whether the Offer expires or is revoked, or the Conditional Commitment terminates, or whether the issuance of the Additional Loan Guarantee occurs or not, directly pay or reimburse DOE (at DOE's election) for all reasonable and documented costs and expenses incurred by DOE in connection with this Term Sheet, the Conditional Commitment, and the negotiation, execution, and implementation of the Definitive Agreements, including any costs of collecting any amount due hereunder (and reasonable attorneys' fees). Such payment or reimbursement shall be due and payable promptly upon the Borrower's receipt of DOE's demand therefor.

9. Publication

Neither the Borrower nor any of its affiliates or representatives, may issue any press release or make any other public statement directly or indirectly relating to DOE, the Offer, the Term Sheet, the Conditional Commitment, or DOE's potential involvement in the Additional Guaranteed Loan or Additional Loan Guarantee without DOE's prior written consent unless required by applicable law (in which case the Borrower shall promptly provide notice to DOE of such disclosure). The Borrower shall include an express disclaimer that DOE has provided no assurance that an

Hearings and Appeals, HG-1, L'Enfant Plaza, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585-1615. The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. The appeal must contain all the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either: 1) in the district where you reside; 2) where you have your principal place of business; 3) where DOE's records are situated; or 4) in the District of Columbia.

You may contact DOE's FOIA Public Liaison, Alexander Morris, Acting Director, Office of Information Resources, at 202-586-5955 or by mail at MA-46/Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at (877) 684-6448; or facsimile at (202) 741-5769.

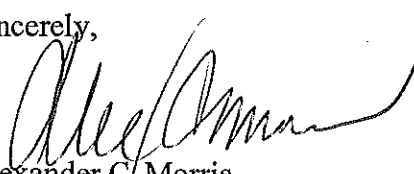
The FOIA provides for the assessment of fees for the processing of requests. *See* 5 U.S.C. § 552(a)(4)(A)(i); *see also* 10 C.F.R. § 1004.9(a). In DOE's letter of December 8, 2017, you were advised that your request was placed in the "other" category for fee purposes. Requesters in this category are entitled to two (2) free hours of search and 100 pages at no cost. In the same letter, you were advised that your request for a fee waiver was granted. Thus, no fees will be charged for processing your request.

If you have any questions about the processing of the request or this letter, you may contact Roman Vayner or me at:

MA-46/Forrestal Building
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(202) 586-5955

I appreciate the opportunity to assist you with this matter.

Sincerely,



Alexander C. Morris
FOIA Officer
Office of Public Information

Enclosures

INDEX

Request #: HQ-2018-00342-F

Final response for request from Mindy Goldstein for the following:

Records related to DOE's conditional commitment to provide Georgia Power Company, Municipal Electric Authority of Georgia (or its subsidiaries), and Oglethorpe Power Corporation with \$3.7 billion in additional loan guarantees for two new reactors at Plant Vogtle (the "conditional loan guarantees"), as announced by DOE on September 29, 2017. Specifically, we request records of:

- 1) Executed term sheets for the conditional loan guarantees committed to Georgia Power Company, Oglethorpe Power Corporation, and Municipal Electric Authority of Georgia.**
- 2) Any credit subsidy fee estimates for the conditional loan guarantees committed to Georgia Power Company, Oglethorpe Power Corporation, and Municipal Electric Authority of Georgia.**

The Loan Programs Office (LPO) identified nine (9) documents responsive to your request.

- Nine (9) documents are being released in their entirety.



Department of Energy
Washington, DC 20585

September 28, 2017

Georgia Power Company
241 Ralph McGill Boulevard, N.E.
Atlanta, Georgia 30308-3374
Attention: David Poroach, Vice President & Comptroller

Re: United States Department of Energy (DOE) Loan Guarantee

Dear David:

We are pleased to provide you with a credit subsidy cost estimate related to your application for additional loan guarantee funds for the Vogtle Project.

Based on the Terms and Conditions negotiated between Georgia Power Company (GPC) and the DOE Loan Programs Office (LPO), the LPO has developed a range of credit subsidy cost estimates for the proposed additional loan guarantee.

At this time, LPO's estimated Credit Subsidy Costs range associated with your requested loan guarantee in the amount of \$1,668,223,779 results in a credit subsidy fee of \$0. This estimate is not binding and may change based on a variety of factors, including but not limited to the completion of the LPO's due diligence, any revisions to the financial model, the final credit rating, the terms of the definitive financing agreements, and other project-specific factors.

This estimate is intended to provide you with information to consider as you move forward in project activities. In developing this estimate, the LPO has relied on the best available information at this time. There will usually be differences between preliminary credit subsidy estimates and the final determination of credit subsidy cost. These differences may be material and the final credit subsidy cost could be greater than, less than, or within the range provided. Therefore, the range estimate provided above is not binding and is subject to change as the LPO proceeds through the due diligence, documentation and final credit underwriting process. The borrower is responsible for paying a fee equal to the final credit subsidy cost estimate at financial close.

In addition, please note that under the Federal Credit Reform Act of 1990 (FCRA), applicable to GPC's existing loan guarantee agreement with DOE, changes to the terms of that agreement resulting from the additional requested support may (but are not certain to) increase the credit subsidy cost to the Government of the existing transaction. In such event, GPC would be required to pay in advance a fee equal to such increase.

We look forward to continue working with you on this important project.

[Signature page follows.]

Best Regards,

UNITED STATES DEPARTMENT OF ENERGY

By:

A handwritten signature in dark ink, appearing to read "John Sneed", is written over a horizontal line.

John Sneed

Executive Director

Office of Loan Program

Exhibit A-1

Georgia Power Company Term Sheet

[Attached]

Exhibit A-1-1



Department of Energy

Washington, DC 20585

September 28, 2017

Georgia Power Company
241 Ralph McGill Boulevard, NE
Atlanta, Georgia 30308-3374
Attn: David Poroch
Vice President and Comptroller

Re: United States Department of Energy Loan Guarantee
LPO Loan Number: 1349

Ladies and Gentlemen:

This letter constitutes the offer (the "Offer") of the Department of Energy ("DOE") to guarantee an additional loan (the "Additional Guaranteed Loan") from the Federal Financing Bank ("FFB") to Georgia Power Company (the "Borrower") to finance a portion of the costs to construct two AP1000 nuclear power generation units with a combined net output of approximately 2,204 MW that are currently under construction in Waynesboro, Georgia (the "Project"). This letter sets forth the principal terms and conditions of the Offer and includes and incorporates the Summary of Terms and Conditions for Loan Guarantee attached hereto as Annex A (including all documents referenced therein) (this letter and Annex A, collectively, the "Term Sheet").

1. Acceptance of Offer; DOE Loan Facility Fee

You may accept the Offer by (a) delivering to DOE an executed copy of this Term Sheet, and (b) paying to DOE the non-refundable sum of \$2,652,335.67, being twenty-five percent (25.0%) of the DOE Loan Facility Fee described in Annex A, pursuant to the below wire transfer instructions:

U.S. Treasury Department
ABA No. 0210-3000-4 TREASNYC/CTR/BNF=89000001
OBI= LPO - ADVANCED NUCLEAR ENERGY PROJECTS
DOE Loan Facility Fee for Georgia Power Company

DOE shall not commence negotiations of the Definitive Agreements (as defined in Annex A) until the Offer has been accepted in accordance with the foregoing provisions of this Section 1.

2. Agreement

Your acceptance of the Offer (a) confirms your desire for DOE to issue a guarantee (the "Additional Loan Guarantee"), on the terms and conditions set forth in this Term Sheet, with respect to the Additional Guaranteed Loan, and (b) constitutes your agreement to perform your obligations set forth in this Term Sheet.



Printed with soy ink on recycled paper

3. Conditional Commitment

Upon your acceptance of the Offer in accordance with the provisions of Section 1 above, this Term Sheet shall constitute a conditional commitment (the "Conditional Commitment") pursuant to §609.6(c) of the Implementing regulations set forth in 10 CFR Part 609 (the "Applicable Regulations") for Title XVII of the Energy Policy Act of 2005, as amended ("Title XVII").

4. Expiration of Offer

If the Offer has not been accepted in accordance with Section 1 above prior to noon (Washington, D.C. time) on or before September 29, 2017 (the "Offer Expiration Date"), the Offer shall expire and be automatically revoked; provided, however, that DOE shall have the unilateral right to extend the Offer Expiration Date by delivery to the addressee hereof of a notice to such effect.

5. Termination of Conditional Commitment

If the Offer is accepted in accordance with Section 1 above and the issuance of the Additional Loan Guarantee has not occurred before March 31, 2018 (the "Conditional Commitment Expiration Date"), then the Conditional Commitment shall automatically terminate on the Conditional Commitment Expiration Date, and be of no further force or effect other than with regard to those matters set forth in Section 12 below; provided, however, that DOE shall have the unilateral right to extend the Conditional Commitment Expiration Date by delivery to the addressee hereof of a notice to such effect. Nothing herein shall limit any right of the Secretary of Energy to terminate the Conditional Commitment in accordance with the Applicable Regulations.

6. Indemnity

The Borrower agrees to release, indemnify, defend, and hold harmless the United States, including the Secretary of Energy, DOE, and FFB, and their respective employees, designees, agents, and contractors, and all of their respective directors, officers, and employees (each, an "Indemnified Person"), in connection with any losses, claims, damages, liabilities, or other expenses (including, without limitation, attorney's fees) to which such Indemnified Person may become subject, arising out of or relating to (a) this Term Sheet, the Conditional Commitment, the transactions contemplated hereby, or the use or intended use of the proceeds of the Additional Guaranteed Loan, (b) any claim at any time by or with respect to the Borrower or any of its directors, officers, employees, and agents with respect to misappropriation of trade secrets or infringement of intellectual property rights or similar claims, or (c) any other business activities of the Borrower; provided, however, that such release and indemnity shall not apply to the extent the loss, claim, damage, liability or other expense results directly from the gross negligence or willful misconduct of the Indemnified Person as determined by a final, non-appealable judgment of a court of competent jurisdiction. Each Indemnified Person (other than DOE) is an express and intended third party beneficiary hereunder.

7. Representations and Warranties

The Borrower represents and warrants to DOE as follows:

- (a) it has all requisite corporate power and authority to execute, deliver, and perform its obligations in this Term Sheet, and it has duly executed and delivered this Term Sheet; and
- (b) to its knowledge, its application for the Additional Loan Guarantee (including all exhibits thereto, the "Application") and its written responses to written due diligence questions from DOE and its consultants and counsel (other than any forward-looking information contained in the Application and such responses), are complete and, taken together as a whole, correct in all material respects and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make such statements contained therein not misleading in light of the circumstances under which such statements are made. Any forward-looking information contained in the Application and the written responses to written due diligence questions from DOE was prepared in good faith and based on assumptions that it believes to be reasonable.

8. Reimbursement of Expenses

The Borrower shall, whether the Offer expires or is revoked, or the Conditional Commitment terminates, or whether the Issuance of the Additional Loan Guarantee occurs or not, directly pay or reimburse DOE (at DOE's election) for all reasonable and documented costs and expenses incurred by DOE in connection with this Term Sheet, the Conditional Commitment, and the negotiation, execution, and implementation of the Definitive Agreements, including any costs of collecting any amount due hereunder (and reasonable attorneys' fees). Such payment or reimbursement shall be due and payable promptly upon the Borrower's receipt of DOE's demand therefor.

9. Publication

Neither the Borrower nor any of its affiliates or representatives, may issue any press release or make any other public statement directly or indirectly relating to DOE, the Offer, the Term Sheet, the Conditional Commitment, or DOE's potential involvement in the Additional Guaranteed Loan or Additional Loan Guarantee without DOE's prior written consent unless required by applicable law (in which case the Borrower shall promptly provide notice to DOE of such disclosure). The Borrower shall include an express disclaimer that DOE has provided no assurance that an Additional Loan Guarantee will be issued for the Project in: (a) any offering memorandum, subscription agreement or other written materials to be given or presented to (i) any potential investors, direct or indirect, in the Borrower, (ii) potential lenders to or bondholders of the Borrower, or (iii) material counterparties to agreements with the Borrower, or (b) any other written materials concerning the Project, directly or indirectly relating to DOE, this Term Sheet, the Conditional Commitment, or the transactions contemplated by this Term Sheet. All such provisions, materials, or information shall be distributed by the Borrower or its affiliates or representatives only upon a confidential basis.

10. Updates

Following the acceptance of the Offer in accordance with Section 1 above until the issuance of the Additional Loan Guarantee or the date the Offer expired or has been revoked or the Conditional Commitment has terminated, the Borrower shall promptly inform DOE of any new information material to the Project or the DOE's potential Additional Loan Guarantee or any information that is materially different from the information contained in the Application, together with the details of such information.

11. Applicable Law; Governing Law

(a) All provisions of the Offer, this Term Sheet, the Conditional Commitment, and all matters connected herewith and therewith are subject to Title XVII, the Applicable Regulations, and all other applicable laws.

(b) The Offer, this Term Sheet, the Conditional Commitment, and all matters connected herewith and therewith shall be governed by, and construed and interpreted in accordance with the Federal law of the United States of America. To the extent that Federal law does not specify the appropriate rule of decision for a particular matter at issue, it is the intention and agreement of the parties hereto that the law of the State of New York (without giving effect to its conflict of laws principles (except Section 5-1401 of the New York General Obligations Law)) shall be adopted as the governing Federal rule of decision.

12. Survival

The Borrower's representations and warranties and its payment, reimbursement, and indemnification obligations, as set forth in this Term Sheet, shall survive (i) the expiration or termination of the Conditional Commitment, and (ii) the execution of the Definitive Agreements, except to the extent expressly modified, cancelled, terminated, or superseded by the Definitive Agreements.

13. Miscellaneous

The Borrower may not assign the Offer, this Term Sheet, or the Conditional Commitment or any rights hereunder to any person or entity without DOE's prior written consent. The Offer, this Term Sheet, and the Conditional Commitment are for the sole benefit of the Borrower, DOE, and (solely with respect to the provisions of Section 6 above) the Indemnified Persons. No other person (other than the Indemnified Persons) shall be a direct or indirect beneficiary of the Offer, this Term Sheet, or the Conditional Commitment or otherwise be entitled to rely hereon or thereon. When the Offer is accepted in accordance with Section 1 above, the Conditional Commitment shall constitute the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede any prior agreements or understandings, written or oral, relating to the subject matter hereof. The Conditional Commitment may not be amended or modified, except by an instrument in writing signed by each of the parties hereto (or their permitted assignees), other than any unilateral extension of the Conditional Commitment Expiration Date pursuant to Section 5 above.

September 28, 2017
Georgia Power Company
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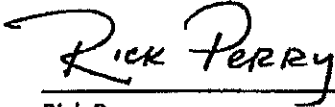
14. Counterparts

This Term Sheet may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement. Such executed counterparts may be delivered electronically, with each original counterpart to be delivered promptly thereafter.

[Signatures Appear on Next Page]


Very truly yours,

U.S. DEPARTMENT OF ENERGY

By: 
Name: Rick Perry
Title: Secretary of Energy

ACCEPTED AND AGREED TO
as of September 28, 2017:

GEORGIA POWER COMPANY

By: 
Name: David Poroch
Title: Vice President and Comptroller

[Signature Page to Conditional Commitment – GPC]

Annex A

**SUMMARY OF TERMS AND CONDITIONS
FOR ADDITIONAL LOAN GUARANTEE**

[Attached]

NRF draft
August 30, 2017

This document contains a summary of certain terms and conditions pursuant to which DOE may enter into a loan guarantee agreement. It is subject to provisions of the regulations with respect to Title XVII, at 10 CFR Part 609, and is not an offer. DOE's decision to execute a loan guarantee agreement remains subject in all respects to due diligence and internal approvals of the U.S. Government. Final loan and loan guarantee documentation may contain substantially different terms and conditions based upon the results of such due diligence and internal approvals. DOE expressly reserves the right to propose further or different terms and conditions as a condition to DOE's involvement in the proposed financing. Additional terms and conditions may be required by the Federal Financing Bank. This document and its contents are confidential and may not be revealed to any party without a need to know its contents for purposes of negotiating and approving DOE's guarantee of the loan described herein.

ANNEX A
TO DOE LOAN GUARANTEE LETTER
SUMMARY OF TERMS AND CONDITIONS FOR LOAN GUARANTEE
Applied for pursuant to Solicitation No. DE-SOL-0007791
and authorized under Title XVII

This Annex A is a summary of the proposed principal terms and conditions for a U.S. Department of Energy ("**DOE**") guarantee of a loan to Georgia Power Company (the "**Borrower**") made by the Federal Financing Bank ("**FFB**") pursuant to Title XVII of the Energy Policy Act of 2005, as amended ("**Title XVII**").

The complete and final terms and conditions will be set forth in appropriate documentation (the "**Definitive Agreements**"), which will be negotiated by DOE, FFB, and the Borrower (collectively, the "**Parties**"). Capitalized terms used but not defined in this Term Sheet have the meanings given to such terms (as of the date hereof) in the final regulations located at 10 C.F.R. Part 609 promulgated by DOE to implement Title XVII (the "**Regulations**") or the Loan Guarantee Agreement, dated as of February 20, 2014, between the Borrower and DOE (as amended through the date hereof, the "**Existing Loan Guarantee Agreement**"). The Existing Loan Guarantee Agreement will be amended and restated as part of the Definitive Agreements (the "**Amended and Restated Loan Guarantee Agreement**").

All provisions of this Term Sheet are subject to the following: (i) the provisions of Title XVII and the Regulations, and (ii) all DOE or FFB legal and financial requirements, policies, and procedures applicable to the Title XVII program from time to time (the "**Program Requirements**," except that from and after the date that the Definitive Agreements are entered into, the term "Program Requirements" shall not include DOE or FFB requirements, policies and procedures referenced at subsection (ii) of this definition not having the force of law).

The Definitive Agreements will contain terms and conditions substantially similar to the existing Loan Documents (including, without limitation, the FFB Credit Facility Documents), with the following exceptions:

- 1. FFB Credit Facility**

An additional loan from FFB (the "***Additional Guaranteed Loan***") available to the Borrower in a principal amount (the "***Additional Guaranteed Loan Amount***") of up to the lesser of (i) \$1,668,223,779, and (ii) a principal amount that, when added to the existing FFB Credit Facility Commitment, is no more than 70% of the amount equal to the result of subtracting (y) \$1,681,760,000, which amount is the aggregate amount payable by Toshiba Corporation to the Borrower under the Settlement Agreement, dated as of June 9, 2017, by and between the Owners and Toshiba Corporation (the "***Toshiba Settlement Agreement***"), from (z) the Eligible Base Project Costs (determined on the basis of the updated Construction Budget and Borrower Base Case Projections).
- 2. Availability of Funds**

Subject to the terms of the Definitive Agreements, advances of the DOE Guaranteed Loan under the Existing Loan Guarantee Agreement and the Additional Guaranteed Loan (each an "***Advance***") may be requested from time to time during the period from (x) the satisfaction of the conditions precedent set forth in Sections 6 and 7 below (the "***Financial Closing Date***") through (y) (i) with respect to the existing DOE Guaranteed Loan, December 31, 2020 and (ii) with respect to the Additional Guaranteed Loan, November 30, 2023.
- 3. Amortization; Term; Computation of Interest**

The outstanding principal amount of the Additional Guaranteed Loan will be payable in accordance with the same amortization schedule as in effect for the outstanding principal amount of the DOE Guaranteed Loan under the FFB Credit Facility Documents. The outstanding principal amount of the Additional Guaranteed Loan will bear interest at a rate computed in accordance with terms of Section 6 of the existing FFB Promissory Note.
- 4. DOE Fees**

In addition to the DOE Maintenance Fee (which will be increased in the Amended and Restated Loan Guarantee Agreement to double the amounts that are payable under the Existing Loan Guarantee Agreement) and the DOE Modification Reimbursement Payments, if any, the Borrower has paid or will pay the following fees to DOE (collectively, the "***DOE Fees***"):

Application Fee: An application fee of \$400,000 (which DOE acknowledges that it has received in two payments, the first on August 8, 2017 in the amount of \$50,000 and the second on August 16, 2017 in the amount of \$350,000);

DOE Loan Facility Fee: A facility fee equal to 1% for the portion of the principal amount of the Additional Guaranteed Loan Amount that does not exceed \$150,000,000, plus 0.60% for the portion of the principal amount of the Additional Guaranteed Loan Amount that exceeds \$150,000,000, 25% of which is payable upon the execution of this Term Sheet and 75% of which is payable not later than the execution of the Amended and Restated Loan Guarantee Agreement.

5. Definitive Documents

The Definitive Documents shall include, without limitation, (a) the Amended and Restated Loan Guarantee Agreement, providing for, among other things, conditions precedent to the DOE guarantee of the Additional Guaranteed Loan and to the initial Advance of the Additional Guaranteed Loan, and changes to the Existing Loan Guarantee Agreement to reflect, at a minimum, the Replacement EPC Arrangements; (b) an amendment to the Owners Direct Agreement to reflect the Replacement EPC Arrangements; (c) FFB Credit Facility Documents related to the Additional Guaranteed Loan, (d) the Replacement EPC Arrangements consented to by DOE, and (e) Direct Agreements with the counterparties to the Replacement EPC Arrangements.

**6. Conditions Precedent to
Guarantee Issuance
Date and Initial
Advance**

The obligation of DOE to issue the guarantee of repayment of the Additional Guaranteed Loan and the funding of the initial Advance following or concurrent with the execution of the Amended and Restated Loan Guarantee Agreement will be subject to the satisfaction of conditions substantially similar to those contained in the Existing Loan Guarantee Agreement, with modifications determined by DOE to be necessary or appropriate in respect of the Replacement EPC Arrangements, including without limitation updates of any reports, budgets, schedules, certificates or projections, together with the following conditions, each of which must be to the satisfaction of DOE or FFB, as applicable:

- (a) execution and delivery of the Definitive Agreements;
- (b) execution and delivery of the Replacement EPC Arrangements;
- (c) delivery of the Completion Assessment and copies of any related Georgia Public Service Commission approvals or orders;
- (d) delivery of legal opinions, bring down certificates, reliance letters and similar documents as DOE or FFB

may request, with such legal opinions, bring down certificates, reliance letters and similar documents to be substantially similar to those delivered in connection with the Existing Loan Guarantee Agreement;

- (e) delivery of financial statements from certain counterparties to the Replacement EPC Arrangements (it being understood and agreed that the Borrower shall make no representations and warranties with respect to such financial statements);
- (f) delivery of an Appropriations Act certificate from the Borrower and from OPC, MEAG Power SPVJ, LLC, MEAG Power SPVM, LLC and MEAG Power SPVP, LLC;
- (g) receipt by DOE of payment in full of the DOE Guaranteed Loan Credit Subsidy Cost, if any, for the Additional Guaranteed Loan; and
- (h) delivery by the Borrower of an Advance Schedule based on the then-current Construction Budget and Project Milestone Schedule that provides for Advances under the Additional Guaranteed Loan that are consistent with the requirements of Section 7(a) below.

7. Conditions Precedent to Each Advance

Each Advance, including the initial Advance following or concurrent with the execution of the Amended and Restated Loan Guarantee Agreement, will be subject to the satisfaction of conditions substantially similar to those included in the Existing Loan Guarantee Agreement, with modifications determined by DOE to be necessary or appropriate in respect of the Replacement EPC Arrangements, together with the following conditions, which must be to the satisfaction of DOE or FFB, as applicable:

- (a) As of the Advance Notice Date, the aggregate principal amount of all Advances outstanding (of the DOE Guaranteed Loan under the Existing Loan Guarantee Agreement and Additional Guaranteed Loan, taking into account the proposed Advance) does not exceed 70% of (i) the total of Eligible Project Costs the Borrower has incurred *minus* (ii) payments under the Toshiba Settlement Agreement the Borrower has received; and

- (b) Prior to any Advance of the Additional Guaranteed Loan, the FFB Credit Facility Commitment under the Existing Loan Guarantee Agreement shall have been fully drawn, the Availability Period under the Existing Loan Guarantee Agreement has expired, or unless the parties agree in writing to other disbursement arrangements.

The parties acknowledge and agree that all correspondence, books, documents, papers and records relating to the structuring, negotiation and execution of this Term Sheet, the Definitive Agreements, and all supporting documentation, financial statements, audit reports of independent accounting firms, permits and regulatory approvals furnished or otherwise made available to DOE, will be handled in accordance with all applicable federal laws, rules, or regulations, including but not limited to the Trade Secrets Act, 18 U.S.C. § 1905, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and DOE's implementing regulations at 10 C.F.R. § 1004.

The closing of any financial transaction relating to the Additional Guaranteed Loan is subject to Definitive Agreements acceptable to the Borrower, DOE and FFB.



Department of Energy
Washington, DC 20585

September 28, 2017

Municipal Electric Authority of Georgia
1470 Riveredge Parkway, NW
Atlanta, Georgia 30328 - 4686
Attention: Edward Easterlin, Senior Vice President and Chief Financial Officer

Re: United States Department of Energy (DOE) Loan Guarantee

Dear Edward:

We are pleased to provide you with a credit subsidy cost estimate related to your application for additional loan guarantee funds for the Vogtle Project. The following outlines the cost subsidy estimates for SPV J, SPV P, and SPV M.

SPV J

Based on the Terms and Conditions negotiated between SPV J, a special purpose limited liability company formed as a wholly-owned subsidiary of Municipal Electric Authority of Georgia (MEAG) and the DOE Loan Programs Office (LPO), the LPO has developed a range of credit subsidy cost estimates for the proposed additional loan guarantee.

At this time, LPO's estimate of the Credit Subsidy Cost associated with your requested loan guarantee in the amount of \$111,541,000 ranges from \$0 to \$594,000. The midpoint of that range is \$297,000, although the median value is not necessarily an indication of the final estimate.

This estimate is not binding and may change based on a variety of factors, including but not limited to the completion of the LPO's due diligence, any revisions to the financial model, the final credit rating, the terms of the definitive financing agreements, and other project-specific factors.

This estimate is intended to provide you with information to consider as you move forward in project activities. In developing this estimate, the LPO has relied on the best available information at this time. There will usually be differences between preliminary credit subsidy estimates and the final determination of credit subsidy cost. These differences may be material and the final credit subsidy cost could be greater than, less than, or within the range provided. Therefore, the range estimate provided above is not binding and is subject to change as the LPO proceeds through the due diligence, documentation and final credit underwriting process. The borrower is responsible for paying a fee equal to the final credit subsidy cost estimate at financial close.

SPV P

Based on the Terms and Conditions negotiated between SPV P, a special purpose limited liability company formed as a wholly-owned subsidiary of Municipal Electric Authority of Georgia (MEAG) and the DOE Loan Programs Office (LPO), the LPO has developed a range of credit subsidy cost estimates for the proposed additional loan guarantee.

At this time, LPO's estimate of the Credit Subsidy Cost associated with your requested loan guarantee in the amount of \$173,490,900 ranges from \$0 to \$977,000. The midpoint of that range is \$489,000, although the median value is not necessarily an indication of the final estimate.

This estimate is not binding and may change based on a variety of factors, including but not limited to the completion of the LPO's due diligence, any revisions to the financial model, the final credit rating, the terms of the definitive financing agreements, and other project-specific factors.

This estimate is intended to provide you with information to consider as you move forward in project activities. In developing this estimate, the LPO has relied on the best available information at this time. There will usually be differences between preliminary credit subsidy estimates and the final determination of credit subsidy cost. These differences may be material and the final credit subsidy cost could be greater than, less than, or within the range provided. Therefore, the range estimate provided above is not binding and is subject to change as the LPO proceeds through the due diligence, documentation and final credit underwriting process. The borrower is responsible for paying a fee equal to the final credit subsidy cost estimate at financial close.

SPV M

Based on the Terms and Conditions negotiated between SPV M, a special purpose limited liability company formed as a wholly-owned subsidiary of Municipal Electric Authority of Georgia (MEAG) and the DOE Loan Programs Office (LPO), the LPO has developed a range of credit subsidy cost estimates for the proposed additional loan guarantee.

At this time, the LPO estimate of the Credit Subsidy Cost associated with your requested loan guarantee in the amount of \$129,684,000 ranges from \$0 to \$211,000. The midpoint of that range is \$106,000, although the median value is not necessarily an indication of the final estimate.

This estimate is not binding and may change based on a variety of factors, including but not limited to the completion of the LPO's due diligence, any revisions to the financial model, the final credit rating, the terms of the definitive financing agreements, and other project-specific factors.

This estimate is intended to provide you with information to consider as you move forward in project activities. In developing this estimate, the LPO has relied on the best available information at this time. There will usually be differences between preliminary credit subsidy estimates and the final determination of credit subsidy cost. These differences may be material and the final credit subsidy cost could be greater than, less than, or within the range provided. Therefore, the range estimate provided above is not binding and is subject to change as the LPO proceeds through the due diligence, documentation and final credit underwriting process. The borrower is responsible for paying a fee equal to the final credit subsidy cost estimate at financial close.

In addition, please note that under the Federal Credit Reform Act of 1990 (FCRA), applicable to each SPV's existing loan guarantee agreement with DOE, changes to the terms of that agreement resulting from the additional requested support may (but are not certain to) increase the credit subsidy cost to the Government of the existing transaction. In such event, the applicable SPV(s) would be required to pay in advance a fee equal to such increase.

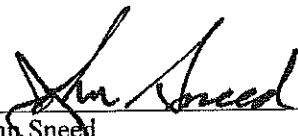
We look forward to continue working with you on this important project.

[Signature page follows.]

Best Regards,

UNITED STATES DEPARTMENT OF ENERGY

By:



John Sneed
Executive Director
Office of Loan Program



Department of Energy

Washington, DC 20585

September 28, 2017

Municipal Electric Authority of Georgia
1470 Riveredge Parkway, NW
Atlanta, Georgia 30328-4686
Attention: James E. Fuller
President & Chief Executive Officer
Facsimile: 866-422-2976
Email: jfuller@meagpower.org

Re: United States Department of Energy Loan Guarantee
LPO Loan Numbers: 1350, 1351, and 1352

Ladies and Gentlemen:

This letter constitutes the offer (the "**Offer**") of the Department of Energy ("**DOE**") to guarantee additional loans (the "**Additional Guaranteed Loan**") from the Federal Financing Bank ("**FFB**") to three special purpose limited liability companies, MEAG Power SPVJ, LLC, MEAG Power SPVM, LLC and MEAG Power SPVP, LLC (each, a "**Borrower**" and collectively, the "**Borrowers**"), each with Municipal Electric Authority of Georgia ("**Sponsor**") as its sole member, to finance a portion of the costs to construct two AP1000 nuclear power generation units with a combined net output of approximately 2,204 MW that are currently under construction in Waynesboro, Georgia (the "**Project**"). This letter sets forth the principal terms and conditions of the Offer and includes and incorporates the Summary of Terms and Conditions for Loan Guarantee attached hereto as Annex A (including all documents referenced therein) (this letter and Annex A, collectively, the "**Term Sheet**").

1. Acceptance of Offer; DOE Loan Facility Fee

You may accept the Offer by (a) delivering to DOE an executed copy of this Term Sheet, and (b) paying to DOE the non-refundable sum of \$[772,073.85], being twenty-five percent (25.0%) of the DOE Loan Facility Fee described in Annex A, pursuant to the below wire transfer instructions:

U.S. Treasury Department
ABA No. 0210-3000-4 TREASNYC/CTR/BNF=890000001
OBI= LPO – ADVANCED NUCLEAR ENERGY PROJECTS
DOE Loan Facility Fee for Municipal Electric Authority of Georgia



DOE shall not commence negotiations of the Definitive Agreements (as defined in Annex A) until the Offer has been accepted in accordance with the foregoing provisions of this Section 1.

2. Agreement

Your acceptance of the Offer (a) confirms your desire for DOE to issue a guarantee (the "Additional Loan Guarantee"), on the terms and conditions set forth in this Term Sheet, with respect to the Additional Guaranteed Loan, and (b) constitutes your agreement to perform your obligations set forth in this Term Sheet.

3. Conditional Commitment

Upon your acceptance of the Offer in accordance with the provisions of Section 1 above, this Term Sheet shall constitute a conditional commitment (the "Conditional Commitment") pursuant to §609.6(c) of the implementing regulations set forth in 10 CFR Part 609 (the "Applicable Regulations") for Title XVII of the Energy Policy Act of 2005, as amended ("Title XVII").

4. Expiration of Offer

If the Offer has not been accepted in accordance with Section 1 above prior to noon (Washington, D.C. time) on or before September 29, 2017 (the "Offer Expiration Date"), the Offer shall expire and be automatically revoked; provided, however, that DOE shall have the unilateral right to extend the Offer Expiration Date by delivery to the addressee hereof of a notice to such effect.

5. Termination of Conditional Commitment

If the Offer is accepted in accordance with Section 1 above and the issuance of the Additional Loan Guarantee has not occurred before March 31, 2018 (the "Conditional Commitment Expiration Date"), then the Conditional Commitment shall automatically terminate on the Conditional Commitment Expiration Date, and be of no further force or effect other than with regard to those matters set forth in Section 12 below; provided, however, that DOE shall have the unilateral right to extend the Conditional Commitment Expiration Date by delivery to the addressee hereof of a notice to such effect. Nothing herein shall limit any right of the Secretary of Energy to terminate the Conditional Commitment in accordance with the Applicable Regulations.

6. Indemnity

The Sponsor and each of the Borrowers (each a "Project Party" and collectively, the "Project Parties") agree to release, indemnify, defend, and hold harmless the United States, including the Secretary of Energy, DOE, and FFB, and their respective employees, designees, agents, and contractors, and all of their respective directors, officers, and employees (each, an "Indemnified Person"), in connection with any losses, claims, damages, liabilities, or other expenses (including, without limitation, attorney's fees) to which such Indemnified Person may become subject, arising out of or relating to (a) this Term Sheet, the Conditional Commitment, the transactions contemplated hereby, or the use or intended use of the proceeds of the Additional Guaranteed

Loan, (b) any claim at any time by or with respect to any Project Party or any of its directors, officers, employees, and agents with respect to misappropriation of trade secrets or infringement of intellectual property rights or similar claims, or (c) any other business activities of any Borrower; provided, however, that such release and indemnity shall not apply to the extent the loss, claim, damage, liability or other expense results directly from the gross negligence or willful misconduct of the Indemnified Person as determined by a final, non-appealable judgment of a court of competent jurisdiction. Each Indemnified Person (other than DOE) is an express and intended third party beneficiary hereunder. The indemnification obligations of each Project Party are joint and several.

7. Representations and Warranties

The Sponsor and as applicable, each Borrower on behalf of itself, represent and warrant to DOE as follows:

- (a) it has all requisite corporate power and authority to execute, deliver, and perform their obligations in this Term Sheet, and it has duly executed and delivered this Term Sheet; and
- (b) to its knowledge, its application for the Additional Loan Guarantee (including all exhibits thereto, the "Application") and its written responses to written due diligence questions from DOE and its consultants and counsel (other than any forward-looking information contained in the Application and such responses), are complete and, taken together as a whole, correct in all material respects and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make such statements contained therein not misleading in light of the circumstances under which such statements are made. Any forward-looking information contained in the Application and the written responses to written due diligence questions from DOE was prepared in good faith and based on assumptions that it believes to be reasonable.

8. Reimbursement of Expenses

The Project Parties shall, jointly and severally, whether the Offer expires or is revoked, or the Conditional Commitment terminates, or whether the issuance of the Additional Loan Guarantee occurs or not, directly pay or reimburse DOE (at DOE's election) for all reasonable and documented costs and expenses incurred by DOE in connection with this Term Sheet, the Conditional Commitment, and the negotiation, execution, and implementation of the Definitive Agreements, including any costs of collecting any amount due hereunder (and reasonable attorneys' fees). Such payment or reimbursement shall be due and payable promptly upon the any Project Party's receipt of DOE's demand therefor.

9. Publication

None of the Project Parties nor any of their affiliates or representatives, may issue any press release or make any other public statement directly or indirectly relating to DOE, the Offer, the Term Sheet, the Conditional Commitment, or DOE's potential involvement in the Additional

Guaranteed Loan or Additional Loan Guarantee without DOE's prior written consent unless required by applicable law (in which case the relevant Project Party shall promptly provide notice to DOE of such disclosure). The Project Parties shall include an express disclaimer that DOE has provided no assurance that an Additional Loan Guarantee will be issued for the Project in: (a) any offering memorandum, subscription agreement or other written materials to be given or presented to (i) any potential Investors, direct or indirect, in each such Borrower, (ii) potential lenders to or bondholders of the Borrowers, or (iii) material counterparties to agreements with the Borrowers, or (b) any other written materials concerning the Project, directly or indirectly relating to DOE, this Term Sheet, the Conditional Commitment, or the transactions contemplated by this Term Sheet. All such provisions, materials, or information shall be distributed by the Project Parties or their affiliates or representatives only upon a confidential basis.

10. Updates

Following the acceptance of the Offer in accordance with Section 1 above until the issuance of the Additional Loan Guarantee or the date the Offer expired or has been revoked or the Conditional Commitment has terminated, each Project Party shall promptly inform DOE of any new information material to the Project or the DOE's potential Additional Loan Guarantee or any information that is materially different from the information contained in the Application, together with the details of such information.

11. Applicable Law; Governing Law

(a) All provisions of the Offer, this Term Sheet, the Conditional Commitment, and all matters connected herewith and therewith are subject to Title XVII, the Applicable Regulations, and all other applicable laws.

(b) The Offer, this Term Sheet, the Conditional Commitment, and all matters connected herewith and therewith shall be governed by, and construed and interpreted in accordance with the Federal law of the United States of America. To the extent that Federal law does not specify the appropriate rule of decision for a particular matter at issue, it is the intention and agreement of the parties hereto that the law of the State of New York (without giving effect to its conflict of laws principles (except Section 5-1401 of the New York General Obligations Law)) shall be adopted as the governing Federal rule of decision.

12. Survival

The Project Parties' representations and warranties and their payment, reimbursement, and indemnification obligations, as set forth in this Term Sheet, shall survive (i) the expiration or termination of the Conditional Commitment, and (ii) the execution of the Definitive Agreements, except to the extent expressly modified, cancelled, terminated, or superseded by the Definitive Agreements.

13. Miscellaneous

The Project Parties may not assign the Offer, this Term Sheet, or the Conditional Commitment or any rights hereunder to any person or entity without DOE's prior written consent. The Offer, this Term Sheet, and the Conditional Commitment are for the sole benefit of the Project Parties, DOE, and (solely with respect to the provisions of Section 6 above) the Indemnified Persons. No other person (other than the Indemnified Persons) shall be a direct or indirect beneficiary of the Offer, this Term Sheet, or the Conditional Commitment or otherwise be entitled to rely hereon or thereon. When the Offer is accepted in accordance with Section 1 above, the Conditional Commitment shall constitute the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede any prior agreements or understandings, written or oral, relating to the subject matter hereof. The Conditional Commitment may not be amended or modified, except by an instrument in writing signed by each of the parties hereto (or their permitted assignees), other than any unilateral extension of the Conditional Commitment Expiration Date pursuant to Section 5 above.

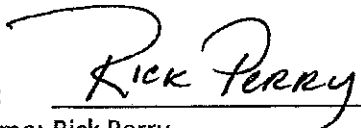
14. Counterparts

This Term Sheet may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement. Such executed counterparts may be delivered electronically, with each original counterpart to be delivered promptly thereafter.

[Signatures Appear on Next Pages]

Very truly yours,

U.S. DEPARTMENT OF ENERGY

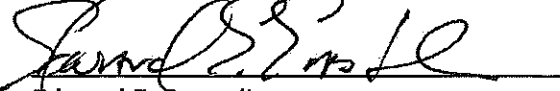
By: 
Name: Rick Perry
Title: Secretary of Energy

ACCEPTED AND AGREED TO
as of September 28, 2017:

[Signature Page to Conditional Commitment – SPVJ, SPVM, SPVP]


ACCEPTED AND AGREED TO
as of September 28, 2017:

MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA

By: 
Name: Edward E. Easterlin
Title: Senior Vice President and Chief Financial Officer

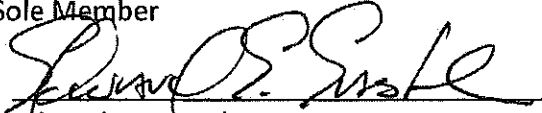
MEAG POWER SPVJ, LLC

By: **MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA**
as its Sole Member

By: 
Name: Edward E. Easterlin
Title: Senior Vice President and Chief Financial Officer

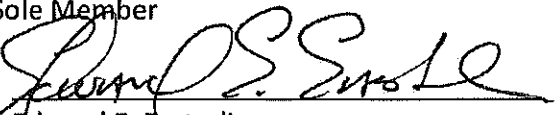
MEAG POWER SPVM, LLC

By: **MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA**
as its Sole Member

By: 
Name: Edward E. Easterlin
Title: Chief Financial Officer

MEAG POWER SPVP, LLC

By: **MUNICIPAL ELECTRIC AUTHORITY OF GEORGIA**
as its Sole Member

By: 
Name: Edward E. Easterlin
Title: Senior Vice President and Chief Financial Officer

Annex A

**SUMMARY OF TERMS AND CONDITIONS
FOR ADDITIONAL LOAN GUARANTEE**

[Attached]

This document contains a summary of certain terms and conditions pursuant to which DOE may enter into three separate loan guarantee agreements. It is subject to provisions of the regulations with respect to Title XVII, at 10 CFR Part 609, and is not an offer. DOE's decision to execute such loan guarantee agreements remains subject in all respects to due diligence and internal approvals of the U.S. Government. Final loan and loan guarantee documentation may contain substantially different terms and conditions based upon the results of such due diligence and internal approvals. DOE expressly reserves the right to propose further or different terms and conditions as a condition to DOE's involvement in the proposed financing. Additional terms and conditions may be required by the Federal Financing Bank. This document and its contents are confidential and may not be revealed to any party without a need to know its contents for purposes of negotiating and approving DOE's guarantee of the loan described herein.

ANNEX A
TO DOE LOAN GUARANTEE LETTER
SUMMARY OF TERMS AND CONDITIONS FOR LOAN GUARANTEE
Applied for pursuant to Solicitation No. DE-SOL-0007791
and authorized under Title XVII

This Annex A is a summary of the proposed principal terms and conditions for a U.S. Department of Energy ("**DOE**") guarantee of loans to three special purpose limited liability companies, MEAG Power SPVM, LLC (Project M), MEAG Power SPVJ, LLC (Project J), and MEAG Power SPVP, LLC (Project P) (each a "**Borrower**" and collectively the "**Borrowers**") each wholly owned by Municipal Electric Authority of Georgia ("MEAG Power") made by the Federal Financing Bank ("**FFB**") pursuant to Title XVII of the Energy Policy Act of 2005, as amended ("**Title XVII**").

The complete and final terms and conditions will be set forth in appropriate documentation (the "**Definitive Agreements**"), which will be negotiated by DOE, FFB, and each Borrower (collectively, the "**Parties**"). Capitalized terms used but not defined in this Term Sheet have the meanings given to such terms (as of the date hereof) in the final regulations located at 10 C.F.R. Part 609 promulgated by DOE to implement Title XVII (the "**Regulations**") or the relevant Loan Guarantee Agreement for the relevant Borrower, dated as of June 24, 2015, between the relevant Borrower and DOE (as amended through the date hereof, each an "**Existing Loan Guarantee Agreement**"). Each Existing Loan Guarantee Agreement will be amended and restated as part of the Definitive Agreements (each an "**Amended and Restated Loan Guarantee Agreement**").

All provisions of this Term Sheet are subject to the following: (i) the provisions of Title XVII and the Regulations, and (ii) all DOE or FFB legal and financial requirements, policies, and procedures applicable to the Title XVII program from time to time (the "**Program Requirements**," except that from and after the date that the Definitive Agreements are entered into, the term "Program Requirements" shall not include DOE or FFB requirements, policies and procedures referenced at subsection (ii) of this definition not having the force of law).

The Definitive Agreements will contain terms and conditions substantially similar to the existing Loan Documents, with the following exceptions:

- 1. FFB Credit Facility** Additional loans from FFB (the "*Additional Guaranteed Loan*") available to the Borrowers in a principal amount (the "*Additional Guaranteed Loan Amount*") of up to the lesser of (i) \$414,715,900 in aggregate, comprised of \$111,541,000 for Project J, \$129,684,000 for Project M, and \$173,490,900 for Project P, and (ii) a principal amount that, when added to the existing FFB Credit Facility Commitment is no more than 50% for the Borrowers in aggregate, consisting of 38% for Project J, 47% for Project M, and 74% percent for Project P, of the amount equal to the result of subtracting (y) \$835,360,000, which amount is the aggregate amount payable by Toshiba Corporation to the Borrowers under the Settlement Agreement, dated as of June 9, 2017, by and between the Owners and Toshiba Corporation (the "*Toshiba Settlement Agreement*"), from (z) the Eligible Project Costs (determined on the basis of the updated Construction Budget and Borrower Base Case Projections).
- 2. Availability of Funds** Subject to the terms of the Definitive Agreements, advances of the DOE Guaranteed Loan under the Existing Loan Guarantee Agreement and the Additional Guaranteed Loan (each an "*Advance*") may be requested from time to time during the period from (x) the satisfaction of the conditions precedent set forth in Sections 6 and 7 below (the "*Financial Closing Date*") through (y) (i) with respect to the existing DOE Guaranteed Loan, December 31, 2020 and (ii) with respect to the Additional Guaranteed Loan, November 30, 2023.
- 3. Amortization; Term** The outstanding principal amount of the Additional Guaranteed Loan for each Borrower will be payable in accordance with the same amortization schedule as in effect for the outstanding principal amount of the DOE Guaranteed Loan under the FFB Credit Facility Documents for each Borrower. The outstanding principal amount of the Additional Guaranteed Loan will bear interest at a rate computed in accordance with terms of Section 6 of the existing FFB Promissory Notes.
- 4. DOE Fees** In addition to the DOE Maintenance Fee (which will be increased in the Amended and Restated Loan Guarantee Agreement to double the amounts that are payable under the Existing Loan Guarantee Agreement) and the DOE Modification Reimbursement Payments, if any, the

Borrowers have paid or will pay the following fees to DOE (collectively, the "*DOE Fees*");

Application Fee: An application fee of \$400,000 (which DOE acknowledges that it has received in two payments, the first on August 4, 2017 in the amount of \$50,000 and the second on August 16, 2017 in the amount of \$350,000);

DOE Loan Facility Fee: A facility fee equal to 1% for the portion of the principal amount of the Additional Guaranteed Loan Amount that does not exceed \$150,000,000, plus 0.60% for the portion of the principal amount of the Additional Guaranteed Loan Amount that exceeds \$150,000,000, 25% of which is payable upon the execution of this Term Sheet and 75% of which is payable not later than the execution of the Amended and Restated Loan Guarantee Agreement.

5. Definitive Documents

The Definitive Documents shall include, without limitation, (a) the Amended and Restated Loan Guarantee Agreement for each Borrower, providing for, among other things, conditions precedent to the DOE guarantee of the Additional Guaranteed Loan for each Borrower and to the initial Advance of the Additional Guaranteed Loan for each Borrower, and changes to the Existing Loan Guarantee Agreement for each Borrower to reflect, at a minimum, the Replacement EPC Arrangements; (b) amendments to the Equity Documents and Security Documents, as necessary; (c) an amendment to the Owners Direct Agreement to reflect the Replacement EPC Arrangements; (d) FFB Credit Facility Documents related to the Additional Guaranteed Loan for each Borrower; and (e) Direct Agreements with the counterparties to the Replacement EPC Arrangements.

**6. Conditions Precedent to
Guarantee Issuance
Date and Initial
Advance**

The obligation of DOE to issue the guarantee of repayment of the Additional Guaranteed Loan for each Borrower and the funding of the initial Advance for each Borrower following or concurrent with the execution of the Amended and Restated Loan Guarantee Agreement for each Borrower will be subject to the satisfaction of conditions substantially similar to those contained in the Existing Loan Guarantee Agreement for each Borrower, with modifications determined by DOE to be necessary or appropriate in respect of the Replacement EPC Arrangements, including without limitation updates of any reports, budgets, schedules, certificates or projections, together with the following conditions, each of which must be to the satisfaction of DOE or FFB, as applicable:

- (a) execution and delivery of the Definitive Agreements;
- (b) execution and delivery of the Replacement EPC Arrangements;
- (c) delivery of the Completion Assessment;
- (d) delivery of legal opinions, bring down certificates, reliance letters and similar documents as DOE or FFB may request;
- (e) delivery of financial statements from certain counterparties to the Replacement EPC Arrangements;
- (f) delivery of an Appropriations Act certificate from the Borrowers and from GPC, and OPC, and
- (g) receipt by DOE of payment in full of the DOE Guaranteed Loan Credit Subsidy Cost for the Additional Guaranteed Loan.

7. Conditions Precedent to Each Advance

Each Advance for each Borrower, including the initial Advance for each Borrower following or concurrent with the execution of the Amended and Restated Loan Guarantee Agreement for each Borrower, will be subject to the satisfaction of conditions substantially similar to those included in the Existing Loan Guarantee Agreement for each Borrower, with modifications determined by DOE to be necessary or appropriate in respect of the Replacement EPC Arrangements, together with the following conditions, each of which must be to the satisfaction of DOE or FFB, as applicable:

- (a) Prior to any Advance of the Additional Guaranteed Loan, the FFB Credit Facility Commitment under the Existing Loan Guarantee Agreement shall have been fully drawn, the Availability Period under the Existing Loan Guarantee Agreement has expired, or unless the parties agree in writing to other disbursement arrangements; and
- (b) No Settlement Proceeds Prepayment Event has occurred and is continuing.

8. Representations and Warranties

The Amended and Restated Loan Guarantee Agreement will include the representations and warranties in the Existing Loan Guarantee Agreement together with the following:

- (a) If any Replacement EPC Arrangements have been terminated or rejected in a bankruptcy proceeding, DOE has approved any documents, instruments or agreements (if any) issued or executed in replacement thereof.

9. Validation Order

Notwithstanding other provisions herein, the terms and conditions of the Amended and Restated Loan Guarantee Agreement shall reflect that no new Validation Order (as defined in the Existing Loan Guarantee Agreement) shall be obtained in connection with entry into the Amended and Restated Loan Guarantee Agreement, subject to (a) DOE's satisfactory due diligence review, and (b) counsel to the Borrowers providing legal opinions in form and substance satisfactory to DOE as to the effectiveness of the Validation Order for purposes of the transactions contemplated in the Amended and Restated Loan Guarantee Agreement.

The parties acknowledge and agree that all correspondence, books, documents, papers and records relating to the structuring, negotiation and execution of this Term Sheet, the Definitive Agreements, and all supporting documentation, financial statements, audit reports of independent accounting firms, permits and regulatory approvals furnished or otherwise made available to DOE, will be handled in accordance with all applicable federal laws, rules, or regulations, including but not limited to the Trade Secrets Act, 18 U.S.C. § 1905, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and DOE's implementing regulations at 10 C.F.R. § 1004.

The closing of any financial transaction relating to the Additional Guaranteed Loan is subject to Definitive Agreements acceptable to the Borrowers, DOE and FFB.



Department of Energy
Washington, DC 20585

September 28, 2017

Oglethorpe Power Corporation (An Electric Membership Corporation)
2100 East Exchange Place
Tucker, Georgia 30084-5336
Attention: Betsy Higgins, Chief Financial Officer

Re: United States Department of Energy (DOE) Loan Guarantee

Dear Betsy:

We are pleased to provide you with a credit subsidy cost estimate related to your application for additional loan guarantee funds for the Vogtle Project.

Based on the Terms and Conditions negotiated between Oglethorpe Power Company (OPC) and the DOE Loan Programs Office (LPO), the LPO has developed a range of credit subsidy cost estimates for the proposed additional loan guarantee.

At this time, LPO's estimated Credit Subsidy Costs range associated with your requested loan guarantee in the amount of \$1,619,679,706 results in a credit subsidy fee of \$0. This estimate is not binding and may change based on a variety of factors, including but not limited to the completion of the LPO's due diligence, any revisions to the financial model, the final credit rating, the terms of the definitive financing agreements, and other project-specific factors.

This estimate is intended to provide you with information to consider as you move forward in project activities. In developing this estimate, the LPO has relied on the best available information at this time. There will usually be differences between preliminary credit subsidy estimates and the final determination of credit subsidy cost. These differences may be material and the final credit subsidy cost could be greater than, less than, or within the range provided. Therefore, the range estimate provided above is not binding and is subject to change as the LPO proceeds through the due diligence, documentation and final credit underwriting process. The borrower is responsible for paying a fee equal to the final credit subsidy cost estimate at financial close.

In addition, please note that under the Federal Credit Reform Act of 1990 (FCRA), applicable to OPC's existing loan guarantee agreement with DOE, changes to the terms of that agreement resulting from the additional requested support may (but are not certain to) increase the credit subsidy cost to the Government of the existing transaction. In such event, OPC would be required to pay in advance a fee equal to such increase.


We look forward to continue working with you on this important project.

[Signature page follows.]

Best Regards,

UNITED STATES DEPARTMENT OF ENERGY

By:

A handwritten signature in dark ink, appearing to read "John Sneed", is written over a horizontal line.

John Sneed
Executive Director
Office of Loan Program

Exhibit A-2

Oglethorpe Power Corporation Term Sheet

[Attached]

Exhibit A-2-1



Department of Energy
Washington, DC 20585

September 28, 2017

Oglethorpe Power Corporation
(An Electric Membership Corporation)
2100 East Exchange Place
Tucker, Georgia 30034-5336
Attention: Betsy Higgins
Chief Financial Officer
Facsimile: 770-270-7977
Email: betsy.higgins@opc.com

Re: United States Department of Energy Loan Guarantee
LPO Loan Number: 1347

Ladies and Gentlemen:

This letter constitutes the offer (the "**Offer**") of the Department of Energy ("**DOE**") to guarantee an additional loan (the "**Additional Guaranteed Loan**") from the Federal Financing Bank ("**FFB**") to Oglethorpe Power Corporation (An Electric Membership Corporation) (the "**Borrower**") to finance a portion of the costs to construct two AP1000 nuclear power generation units with a combined net output of approximately 2,204 MW that are currently under construction in Waynesboro, Georgia (the "**Project**"). This letter sets forth the principal terms and conditions of the Offer and includes and incorporates the Summary of Terms and Conditions for Loan Guarantee attached hereto as Annex A (including all documents referenced therein) (this letter and Annex A, collectively, the "**Term Sheet**").

1. Acceptance of Offer; DOE Loan Facility Fee

You may accept the Offer by (a) delivering to DOE an executed copy of this Term Sheet, and (b) paying to DOE the non-refundable sum of \$2,579,519.56, being twenty-five percent (25.0%) of the DOE Loan Facility Fee described in Annex A, pursuant to the below wire transfer instructions:

U.S. Treasury Department
ABA No. 0210-3000-4 TREASNYC/CTR/BNF=890000001
OBI= LPO – ADVANCED NUCLEAR ENERGY PROJECTS
DOE Loan Facility Fee for Oglethorpe Power Corporation (An Electric Membership Corporation)



DOE shall not commence negotiations of the Definitive Agreements (as defined in Annex A) until the Offer has been accepted in accordance with the foregoing provisions of this Section 1.

2. Agreement

Your acceptance of the Offer (a) confirms your desire for DOE to issue a guarantee (the "Additional Loan Guarantee"), on the terms and conditions set forth in this Term Sheet, with respect to the Additional Guaranteed Loan, and (b) constitutes your agreement to perform your obligations set forth in this Term Sheet.

3. Conditional Commitment

Upon your acceptance of the Offer in accordance with the provisions of Section 1 above, this Term Sheet shall constitute a conditional commitment (the "Conditional Commitment") pursuant to §609.6(c) of the implementing regulations set forth in 10 CFR Part 609 (the "Applicable Regulations") for Title XVII of the Energy Policy Act of 2005, as amended ("Title XVII").

4. Expiration of Offer

If the Offer has not been accepted in accordance with Section 1 above prior to noon (Washington, D.C. time) on or before September 29, 2017 (the "Offer Expiration Date"), the Offer shall expire and be automatically revoked; provided, however, that DOE shall have the unilateral right to extend the Offer Expiration Date by delivery to the addressee hereof of a notice to such effect.

5. Termination of Conditional Commitment

If the Offer is accepted in accordance with Section 1 above and the issuance of the Additional Loan Guarantee has not occurred before March 31, 2018 (the "Conditional Commitment Expiration Date"), then the Conditional Commitment shall automatically terminate on the Conditional Commitment Expiration Date, and be of no further force or effect other than with regard to those matters set forth in Section 12 below; provided, however, that DOE shall have the unilateral right to extend the Conditional Commitment Expiration Date by delivery to the addressee hereof of a notice to such effect. Nothing herein shall limit any right of the Secretary of Energy to terminate the Conditional Commitment in accordance with the Applicable Regulations.

6. Indemnity

The Borrower agrees to release, indemnify, defend, and hold harmless the United States, including the Secretary of Energy, DOE, and FFB, and their respective employees, designees, agents, and contractors, and all of their respective directors, officers, and employees (each, an "Indemnified Person"), in connection with any losses, claims, damages, liabilities, or other expenses (including, without limitation, attorney's fees) to which such Indemnified Person may become subject, arising out of or relating to (a) this Term Sheet, the Conditional Commitment, the transactions contemplated hereby, or the use or intended use of the proceeds of the Additional Guaranteed Loan, (b) any claim at any time by or with respect to the Borrower or any

of its directors, officers, employees, and agents with respect to misappropriation of trade secrets or infringement of intellectual property rights or similar claims, or (c) any other business activities of the Borrower; provided, however, that such release and indemnity shall not apply to the extent the loss, claim, damage, liability or other expense results directly from the gross negligence or willful misconduct of the Indemnified Person as determined by a final, non-appealable judgment of a court of competent jurisdiction. Each Indemnified Person (other than DOE) is an express and intended third party beneficiary hereunder.

7. Representations and Warranties

The Borrower represents and warrants to DOE as follows:

- (a) It has all requisite corporate power and authority to execute, deliver, and perform its obligations in this Term Sheet, and it has duly executed and delivered this Term Sheet; and
- (b) to its knowledge, its application for the Additional Loan Guarantee (including all exhibits thereto, the "**Application**") and its written responses to written due diligence questions from DOE and its consultants and counsel (other than any forward-looking information contained in the Application and such responses), are complete and, taken together as a whole, correct in all material respects and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make such statements contained therein not misleading in light of the circumstances under which such statements are made. Any forward-looking information contained in the Application and the written responses to written due diligence questions from DOE was prepared in good faith and based on assumptions that it believes to be reasonable.

8. Reimbursement of Expenses

The Borrower shall, whether the Offer expires or is revoked, or the Conditional Commitment terminates, or whether the issuance of the Additional Loan Guarantee occurs or not, directly pay or reimburse DOE (at DOE's election) for all reasonable and documented costs and expenses incurred by DOE in connection with this Term Sheet, the Conditional Commitment, and the negotiation, execution, and implementation of the Definitive Agreements, including any costs of collecting any amount due hereunder (and reasonable attorneys' fees). Such payment or reimbursement shall be due and payable promptly upon the Borrower's receipt of DOE's demand therefor.

9. Publication

Neither the Borrower nor any of its affiliates or representatives, may issue any press release or make any other public statement directly or indirectly relating to DOE, the Offer, the Term Sheet, the Conditional Commitment, or DOE's potential involvement in the Additional Guaranteed Loan or Additional Loan Guarantee without DOE's prior written consent unless required by applicable law (in which case the Borrower shall promptly provide notice to DOE of such disclosure). The Borrower shall include an express disclaimer that DOE has provided no assurance that an

Additional Loan Guarantee will be issued for the Project in: (a) any offering memorandum, subscription agreement or other written materials to be given or presented to (i) any potential investors, direct or indirect, in the Borrower, (ii) potential lenders to or bondholders of the Borrower, or (iii) material counterparties to agreements with the Borrower, or (b) any other written materials concerning the Project, directly or indirectly relating to DOE, this Term Sheet, the Conditional Commitment, or the transactions contemplated by this Term Sheet. All such provisions, materials, or information shall be distributed by the Borrower or its affiliates or representatives only upon a confidential basis.

10. Updates

Following the acceptance of the Offer in accordance with Section 1 above until the issuance of the Additional Loan Guarantee or the date the Offer expired or has been revoked or the Conditional Commitment has terminated, the Borrower shall promptly inform DOE of any new information material to the Project or the DOE's potential Additional Loan Guarantee or any information that is materially different from the information contained in the Application, together with the details of such information.

11. Applicable Law; Governing Law

(a) All provisions of the Offer, this Term Sheet, the Conditional Commitment, and all matters connected herewith and therewith are subject to Title XVII, the Applicable Regulations, and all other applicable laws.

(b) The Offer, this Term Sheet, the Conditional Commitment, and all matters connected herewith and therewith shall be governed by, and construed and interpreted in accordance with the Federal law of the United States of America. To the extent that Federal law does not specify the appropriate rule of decision for a particular matter at issue, it is the intention and agreement of the parties hereto that the law of the State of New York (without giving effect to its conflict of laws principles (except Section 5-1401 of the New York General Obligations Law)) shall be adopted as the governing Federal rule of decision.

12. Survival

The Borrower's representations and warranties and its payment, reimbursement, and indemnification obligations, as set forth in this Term Sheet, shall survive (i) the expiration or termination of the Conditional Commitment, and (ii) the execution of the Definitive Agreements, except to the extent expressly modified, cancelled, terminated, or superseded by the Definitive Agreements.

13. Miscellaneous

The Borrower may not assign the Offer, this Term Sheet, or the Conditional Commitment or any rights hereunder to any person or entity without DOE's prior written consent. The Offer, this Term Sheet, and the Conditional Commitment are for the sole benefit of the Borrower, DOE, and (solely with respect to the provisions of Section 6 above) the Indemnified Persons. No other

person (other than the Indemnified Persons) shall be a direct or indirect beneficiary of the Offer, this Term Sheet, or the Conditional Commitment or otherwise be entitled to rely hereon or thereon. When the Offer is accepted in accordance with Section 1 above, the Conditional Commitment shall constitute the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersede any prior agreements or understandings, written or oral, relating to the subject matter hereof. The Conditional Commitment may not be amended or modified, except by an instrument in writing signed by each of the parties hereto (or their permitted assignees), other than any unilateral extension of the Conditional Commitment Expiration Date pursuant to Section 5 above.

14. Counterparts

This Term Sheet may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement. Such executed counterparts may be delivered electronically, with each original counterpart to be delivered promptly thereafter.

[Signatures Appear on Next Page]

Very truly yours,

U.S. DEPARTMENT OF ENERGY

By: Rick Perry
Name: Rick Perry
Title: Secretary of Energy

ACCEPTED AND AGREED TO
as of September 28, 2017:

**OGLETHORPE POWER CORPORATION
(AN ELECTRIC MEMBERSHIP CORPORATION)**

By: Elizabeth B Higgins
Name: Elizabeth B Higgins
Title: EVP, Chief Financial officer

[Signature Page to Conditional Commitment – OPC]

Annex A

**SUMMARY OF TERMS AND CONDITIONS
FOR ADDITIONAL LOAN GUARANTEE**

[Attached]

This document contains a summary of certain terms and conditions pursuant to which DOE may enter into a loan guarantee agreement. It is subject to provisions of the regulations with respect to Title XVII, at 10 CFR Part 609, and is not an offer. DOE's decision to execute a loan guarantee agreement remains subject in all respects to due diligence and internal approvals of the U.S. Government. Final loan and loan guarantee documentation may contain substantially different terms and conditions based upon the results of such due diligence and internal approvals. DOE expressly reserves the right to propose further or different terms and conditions as a condition to DOE's involvement in the proposed financing. Additional terms and conditions may be required by the Federal Financing Bank. This document and its contents are confidential and may not be revealed to any party without a need to know its contents for purposes of negotiating and approving DOE's guarantee of the loan described herein.

ANNEX A
TO DOE LOAN GUARANTEE LETTER
SUMMARY OF TERMS AND CONDITIONS FOR LOAN GUARANTEE
Applied for pursuant to Solicitation No. DE-SOL-0007791
and authorized under Title XVII

This Annex A is a summary of the proposed principal terms and conditions for a U.S. Department of Energy ("**DOE**") guarantee of a loan to Oglethorpe Power Corporation (An Electric Membership Corporation) (the "**Borrower**") made by the Federal Financing Bank ("**FFB**") pursuant to Title XVII of the Energy Policy Act of 2005, as amended ("**Title XVII**").

The complete and final terms and conditions will be set forth in appropriate documentation (the "**Definitive Agreements**"), which will be negotiated by DOE, FFB, and the Borrower (collectively, the "**Parties**"). Capitalized terms used but not defined in this Term Sheet have the meanings given to such terms (as of the date hereof) in the final regulations located at 10 C.F.R. Part 609 promulgated by DOE to implement Title XVII (the "**Regulations**") or the Loan Guarantee Agreement, dated as of February 20, 2014, between the Borrower and DOE (as amended through the date hereof, the "**Existing Loan Guarantee Agreement**"). The Existing Loan Guarantee Agreement will be amended and restated as part of the Definitive Agreements (the "**Amended and Restated Loan Guarantee Agreement**").

All provisions of this Term Sheet are subject to the following: (i) the provisions of Title XVII and the Regulations, and (ii) all DOE or FFB legal and financial requirements, policies, and procedures applicable to the Title XVII program from time to time (the "**Program Requirements**," except that from and after the date that the Definitive Agreements are entered into, the term "Program Requirements" shall not include DOE or FFB requirements, policies and procedures referenced at subsection (ii) of this definition not having the force of law).

The Definitive Agreements will contain terms and conditions substantially similar to the existing Loan Documents, with the following exceptions:

1. FFB Credit Facility

An additional loan from FFB (the "***Additional Guaranteed Loan***") available to the Borrower in a principal amount (the "***Additional Guaranteed Loan Amount***") of up to the lesser of (i) \$1,619,679,706 and (ii) a principal amount that, when added to the existing FFB Credit Facility Commitment, is no more than 70% of the amount equal to the result of subtracting (y) \$1,104,000,000, which amount is the aggregate amount payable by Toshiba Corporation to the Borrower under the Settlement Agreement, dated as of June 9, 2017, by and between the Owners and Toshiba Corporation (the "***Toshiba Settlement Agreement***"), from (z) the Eligible Base Project Costs (determined on the basis of the updated Construction Budget and Borrower Base Case Projections).

2. Availability of Funds

Subject to the terms of the Definitive Agreements, advances of the DOE Guaranteed Loan under the Existing Loan Guarantee Agreement and the Additional Guaranteed Loan (each an "***Advance***") may be requested from time to time during the period from (x) the satisfaction of the conditions precedent set forth in Sections 6 and 7 below (the "***Financial Closing Date***") through (y) (i) with respect to the existing DOE Guaranteed Loan, December 31, 2020 and (ii) with respect to the Additional Guaranteed Loan, November 30, 2023.

3. Amortization; Term

The outstanding principal amount of the Additional Guaranteed Loan will be payable in accordance with the same amortization schedule as in effect for the outstanding principal amount of the DOE Guaranteed Loan under the FFB Credit Facility Documents. The outstanding principal amount of the Additional Guaranteed Loan will bear interest at a rate computed in accordance with terms of Section 6 of the existing FFB Promissory Notes.

4. DOE Fees

In addition to the DOE Maintenance Fee (which will be increased in the Amended and Restated Loan Guarantee Agreement to double the amounts that are payable under the Existing Loan Guarantee Agreement) and the DOE Modification Reimbursement Payments, if any, the Borrower has paid or will pay the following fees to DOE (collectively, the "***DOE Fees***"):

Application Fee: An application fee of \$400,000 (which DOE acknowledges that it has received in two payments, the first on July 19, 2017 in the amount of \$50,000 and the second on August 16, 2017 in the amount of \$350,000);

DOE Loan Facility Fee: A facility fee equal to 1% for the portion of the principal amount of the Additional Guaranteed Loan Amount that does not exceed \$150,000,000, plus 0.60% for the portion of the principal amount of the Additional Guaranteed Loan Amount that exceeds \$150,000,000, 25% of which is payable upon the execution of this Term Sheet and 75% of which is payable not later than the execution of the Amended and Restated Loan Guarantee Agreement.

5. Definitive Documents

The Definitive Documents shall include, without limitation, (a) the Amended and Restated Loan Guarantee Agreement, providing for, among other things, conditions precedent to the DOE guarantee of the Additional Guaranteed Loan and to the initial Advance of the Additional Guaranteed Loan, and changes to the Existing Loan Guarantee Agreement to reflect, at a minimum, the Replacement EPC Arrangements; (b) a supplemental Mortgage Indenture; (c) an amendment to the Owners Direct Agreement to reflect the Replacement EPC Arrangements; (d) FFB Credit Facility Documents related to the Additional Guaranteed Loan, and (e) Direct Agreements with the counterparties to the Replacement EPC Arrangements.

**6. Conditions Precedent to
Guarantee Issuance
Date and Initial
Advance**

The obligation of DOE to issue the guarantee of repayment of the Additional Guaranteed Loan and the funding of the initial Advance following or concurrent with the execution of the Amended and Restated Loan Guarantee Agreement will be subject to the satisfaction of conditions substantially similar to those contained in the Existing Loan Guarantee Agreement, with modifications determined by DOE to be necessary or appropriate in respect of the Replacement EPC Arrangements, including without limitation updates of any reports, budgets, schedules, certificates or projections, together with the following conditions, each of which must be to the satisfaction of DOE or FFB, as applicable:

- (a) execution and delivery of the Definitive Agreements;
- (b) execution and delivery of the Replacement EPC Arrangements;
- (c) delivery of the Completion Assessment;
- (d) delivery of legal opinions, bring down certificates, reliance letters and similar documents as DOE or FFB may request;

- (e) delivery of financial statements from certain counterparties to the Replacement EPC Arrangements;
- (f) delivery of an Appropriations Act certificate from the Borrower and from GPC, MEAG Power SPVJ, LLC, MEAG Power SPVM, LLC and MEAG Power SPVP, LLC, and
- (g) receipt by DOE of payment in full of the DOE Guaranteed Loan Credit Subsidy Cost for the Additional Guaranteed Loan.

7. Conditions Precedent to Each Advance

Each Advance, including the initial Advance following or concurrent with the execution of the Amended and Restated Loan Guarantee Agreement, will be subject to the satisfaction of conditions substantially similar to those included in the Existing Loan Guarantee Agreement, with modifications determined by DOE to be necessary or appropriate in respect of the Replacement EPC Arrangements, together with the following conditions, each of which must be to the satisfaction of DOE or FFB, as applicable:

- (a) As of the Advance Notice Date, the sum of (i) the aggregate amount of all Advances outstanding (of the DOE Guaranteed Loan under the Existing Loan Guarantee Agreement and Additional Guaranteed Loan, taking into account the proposed Advance) *plus* (ii) capitalized interest outstanding does not exceed 70% of (x) the total of Eligible Project Costs the Borrower has incurred *minus* (y) payments under the Toshiba Settlement Agreement the Borrower has received; and
- (b) Prior to any Advance of the Additional Guaranteed Loan, the FFB Credit Facility Commitment under the Existing Loan Guarantee Agreement shall have been fully drawn, the Availability Period under the Existing Loan Guarantee Agreement has expired, or unless the parties agree in writing to other disbursement arrangements.

8. Representations and Warranties

The Amended and Restated Loan Guarantee Agreement will include the representations and warranties in the Existing Loan Guarantee Agreement together with the following:

- (a) If any Replacement EPC Arrangements have been terminated or rejected in a bankruptcy proceeding, DOE has approved any documents, instruments or agreements (if any) issued or executed in replacement thereof.

The parties acknowledge and agree that all correspondence, books, documents, papers and records relating to the structuring, negotiation and execution of this Term Sheet, the Definitive Agreements, and all supporting documentation, financial statements, audit reports of independent accounting firms, permits and regulatory approvals furnished or otherwise made available to DOE, will be handled in accordance with all applicable federal laws, rules, or regulations, including but not limited to the Trade Secrets Act, 18 U.S.C. § 1905, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and DOE's implementing regulations at 10 C.F.R. § 1004.

The closing of any financial transaction relating to the Additional Guaranteed Loan is subject to Definitive Agreements acceptable to the Borrower, DOE and FFB.