



Gulf Power®

Russell Badders
Vice President, Associate General Counsel

March 27, 2020

Mr. Adam Teitzman, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

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COMMISSION
CLERK

RE: Docket No. 20180162-EI
Gulf Power Company Consummation Report for the 12 months ending
December 31, 2019

Dear Mr. Teitzman:

Enclosed for filing in the above docket is Gulf Power Company's ("Gulf's") Request for Confidential Classification of Information Provided in Exhibits to 2019 Consummation Report. The request includes Exhibits A, B (two copies), C and D.

Exhibit A consists of the confidential documents, and all the information that Gulf asserts is entitled to confidential treatment has been highlighted. Exhibit B is an edited version of Exhibit A, consisting of an identifying cover page. Exhibit C is a justification table in support of Gulf's Request for Confidential Classification. Exhibit D contains a declaration in support of Gulf's request.

Please contact me if your Staff has any questions regarding this filing at (850) 444-6550.

Sincerely,

Russell Badders
Vice President & Associate General Counsel

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Enclosures

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for authority to issue and sell securities and to receive common equity contributions during 12 months ending December 31, 2019, pursuant to Chapter 25-8, F.A.C., and Section 366.04, F.S., by Gulf Power Company.

Docket No: 20180162-EI

Date: March 30, 2020

**GULF POWER COMPANY'S REQUEST FOR
CONFIDENTIAL CLASSIFICATION**

Gulf Power Company ("Gulf"), pursuant to Rule 25-22.006, Florida Administrative Code, and section 366.093, Florida Statutes, hereby requests confidential classification of certain portions of documents filed as exhibits to its Consummation Report served in the referenced docket on March 30, 2020

1. On March 30, 2020, Gulf filed a confidential copy of its Consummation Report in the referenced docket, along with a number of exhibits including term loan agreements and signed opinions of Gulf's legal counsel identified as Exhibits 1(a) through 5(d) to the Consummation Report. Confidential information is contained in portions of Exhibits 1(m), 1(n), 2(c), and 2(d).

2. The following exhibits are attached to and made a part of this Request:

- a. Exhibit A is a copy the confidential documents, and all the information that Gulf asserts is entitled to confidential treatment has been highlighted;
- b. Exhibit B is a copy of the confidential material on which all of the information that Gulf asserts is entitled to confidential treatment has been redacted;
- c. Exhibit C is a justification table in support of Gulf's Request for Confidential Classification; and
- d. Exhibit D is the declaration of Mitchell Goldstein in support of this Request.

3. The information identified in Exhibit C is proprietary confidential business information within the meaning of section 366.093(3), Florida Statutes. The document that contains the proprietary and confidential business information is intended to be and is treated by Gulf as private. To the best of Gulf's knowledge, the highlighted information has not been publicly disclosed. Pursuant to section 366.093, Florida Statutes, such information is entitled to confidential treatment and is exempt from the disclosure provisions of the public records law. Thus, once the Commission determines that the highlighted information is proprietary confidential business information, the Commission is not required to engage in any further analysis or review such as weighing the harm of disclosure against the public interest in access to the information.

4. As described in the declaration in Exhibit D, certain documents contain information concerning contractual data, the disclosure of which would impair the efforts of Gulf to contract for goods or services on favorable terms. This information is protected by Section 366.093(3)(d), Fla. Stat.

5. Also, certain information relates to competitive interests, the disclosure of which would impair the competitive business of Gulf and its vendors. This information is protected by Section 366.093(3)(e), Fla. Stat.

6. Upon a finding by the Commission that the information contained in the Confidential Documents is proprietary and confidential business information, the information should not be declassified for a period of at least eighteen (18) months and should be returned to Gulf as soon as it is no longer necessary for the Commission to conduct its business. *See* § 366.093(4), Fla. Stat.

WHEREFORE, for the above and foregoing reasons, as more fully set forth in the supporting materials, Gulf Power Company respectfully requests that its Request for Confidential Classification be granted.

Respectfully submitted this 27th day of March, 2020.

Russell Badders
Vice-President & Associate General Counsel
Gulf Power Company
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Pensacola, FL 32520
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Email: russell.badders@nexteraenergy.com

By: 
Russell Badders
Florida Bar No. 007455

EXHIBIT "A"

EXHIBIT "B"

Exhibit 1 (m)

TERM LOAN AGREEMENT
\$300,000,000 TERM LOAN FACILITY

BETWEEN

GULF POWER COMPANY,

AS BORROWER

AND

[REDACTED],
AS LENDER AND ADMINISTRATIVE AGENT

DATED AS OF SEPTEMBER 30, 2019

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**List of Schedules and Exhibits to the
Revolving Credit Agreement**

Schedules:

<u>Schedule I</u>	Applicable Lending Offices and Notice Addresses
<u>Schedule 4.03</u>	Excepted Liens
<u>Schedule 4.04</u>	Supplemental Disclosures
<u>Schedule 4.06</u>	Litigation

Exhibits:

<u>Exhibit A</u>	Form of Borrowing Notice
<u>Exhibit B</u>	Form of Note
<u>Exhibit C</u>	Form of Interest Rate Notice
<u>Exhibit D</u>	Form of Borrower's Certificate
<u>Exhibit E</u>	Assignment and Assumption Agreement
<u>Exhibit F</u>	Form of Opinion of Borrower's Counsel
<u>Exhibit G-1</u>	U.S. Tax Compliance Certificate (For Foreign Lenders That Are <u>Not</u> Partnerships for U.S. Federal Income Tax Purposes)
<u>Exhibit G-2</u>	U.S. Tax Compliance Certificate (For Foreign Participants That Are <u>Not</u> Partnerships for U.S. Federal Income Tax Purposes)
<u>Exhibit G-3</u>	U.S. Tax Compliance Certificate (For Foreign Participants That <u>Are</u> Partnerships for U.S. Federal Income Tax Purposes)
<u>Exhibit G-4</u>	U.S. Tax Compliance Certificate (For Foreign Lenders That <u>Are</u> Partnerships for U.S. Federal Income Tax Purposes)

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TERM LOAN AGREEMENT

14 This **TERM LOAN AGREEMENT**, dated as of September 30, 2019, is by and among
15 **GULF POWER COMPANY**, a Florida corporation (the "BoITower"), that are parties hereto as
16 Lenders (as defined below which as of the date of this Agreement, consist of those Lenders
17 listed on *Schedule I*, and (the "Agent") (the BoITower, the Lenders
18 and the Agent are hereinafter sometimes referred to collectively as the "Parties" and individually
19 as a "Party").

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WITNESSETH:

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WHEREAS, the BoITower has requested that the Lenders agree to make available to the BoITower a Three Hundred Million United States Dollars (US\$300,000,000) term loan credit facility; and

WHEREAS, the Lenders are willing to do so, on the terms and conditions hereof.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - DEFINITIONS AND RULES OF INTERPRETATION.

Section 1.01. Definitions. The following terms have the respective meanings set forth in this Section 1.01 or elsewhere in the provisions of this Agreement referred to below:

"Acceleration Notice" has the meaning specified in Section 7.02.

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[REDACTED]

36 "Agreement" means this Term Loan Agreement, including the Schedules and Exhibits hereto.

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"Anti-Terrorism Law" means any Requirement of Law related to money laundering or financing terrorism or anticollusion laws including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. 107-56) (the "USA PATRIOT Act"), The Currency and Foreign Transactions Reporting Act (31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959) (also known as the "Bank Secrecy Act"), the Trading With the Enemy Act (50 U.S.C. § 1 et seq.) and Executive Order 13224 (effective September 24, 2001 and the Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1 et seq.).

47
48

"Applicable Lending Office" means, in the case of any Lender, such Lender's Domestic Lending Office or Eurodollar Lending Office, as the case may be.

1 "Assignment and Assumption Agreement" has the meaning specified in
2 Section 10.06(b).

3
4 "Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the
5 applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.
6

7 "Bail-In Legislation" means, with respect to any EEA Member Country implementing
8 Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the
9 European Union, the implementing law for such EEA Member Country from time to time which
10 is described in the EU Bail-In Legislation Schedule.
11



12
13 "Base Rate Loan" means all or any portion of any Loan bearing interest calculated by
14 reference to the Base Rate.

15 "Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

16 "BoLTower" has the meaning given such term in the Preamble.

17
18 "BoLTowing" means the drawing down by the BoLTower of a Loan or Loans from the
19 Lenders on any given BoLTowing Date.

20 "BoLTowing Date" means the date on which any Loan is made or is to be made.

21 "Business Day" means any day other than (a) Saturday or Sunday, or (b) a day on which
22 banking institutions in New York City, New York are required or authorized to close (provided
23 that no day shall be deemed to be a Business Day with respect to any Eurodollar Rate Loan
24 unless such day is also a Eurodollar Business Day).
25
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28 "BoLTowing Notice" means a certificate to be provided pursuant to Section 2.02(a), in
29 substantially the form set forth in Exhibit A.
30

31 "Change in Law" means the occurrence, after the Effective Date, of any of the following:
32 (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law,
33 rule, regulation or treaty or in the administration, interpretation, implementation or application
34 thereof by any Governmental Authority or (c) the making or issuance of any request, rule,
35 guideline or directive (whether or not having the force of law) by any Governmental Authority;
36 provided that notwithstanding anything herein to the contrary, for the purposes of the increased

1 cost provisions in *Section 3.05*, *Section 3.06* or *Section 3.07*, any changes with respect to capital
2 adequacy or liquidity which result from (i) all requests, rules, guidelines or directives under or
3 issued in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act (the
4 "Dodd-Frank Act") and (ii) all requests, rules, guidelines or directives promulgated by the Bank
5 for International Settlements, the Basel Committee on Banking Supervision (or any successor or
6 similar authority) or the United States of America or foreign regulatory authorities, in each case
7 pursuant to "Basel III" (meaning the comprehensive set of reform measures developed (and
8 designated as "Basel III" in September 2010) by the Basel Committee on Banking Supervision,
9 to strengthen the regulation, supervision and risk management of the banking sector), shall in
10 each case be deemed to be a "Change in Law" as to which a Lender is entitled to compensation
11 to the extent such request, rule, guideline or directive is either (1) enacted, adopted or issued
12 after the Effective Date (but regardless of the date the applicable provision of the Dodd-Frank
13 Act or Basel III to which such request, rule, guideline or directive relates was enacted, adopted
14 or issued) or (2) enacted, adopted or issued prior to the Effective Date but either (A) does not
15 require compliance therewith, or (B) which is not fully implemented until after the Effective
16 Date and which entails increased cost related thereto that cannot be reasonably determined as of
17 the Effective Date.
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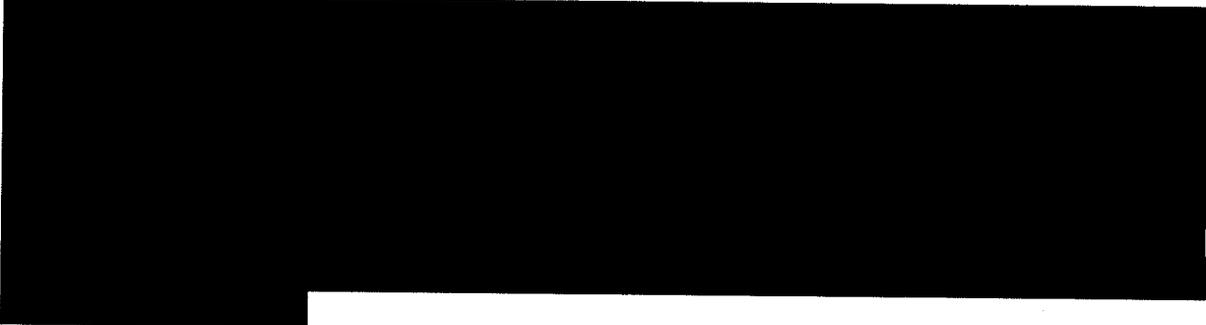
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28 [REDACTED]
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"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

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"Conversion" or "Conversion" means a conversion of all or part of any Loan of one Type into a Loan of another Type pursuant to Section 2.06 hereof (including any such conversion made as a result of the operation of any other provision hereof).

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"date of this Agreement" and "date hereof" means September 30, 2019.

12

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"Default" means an Event of Default, or an event that with notice or lapse of time or both would become an Event of Default, or the filing in any court of competent jurisdiction of any petition or application or the commencement of any case or other proceeding referred to in Section 7.01 (g) so long as the same remains undismissed or unstayed.

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"Defaulting Lender" means, subject to Section 3.10(b), any Lender that (a) fails to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Agent and the Bonower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Agent, or any other Lender any other amount required to be paid by it hereunder within two (2) Business Days of the date when such payment is due; (b) notifies the Bonower or the Agent in writing that it does not intend to comply with its funding obligations under this Agreement, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied); (c) fails, within three (3) Business Days after written request by the Agent or the Bonower, to confirm in writing to the Agent and to the Bonower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon the subsequent receipt of such written confirmation by the Agent and the Bonower); or (d) has (or has a direct or indirect parent company that has) become the subject of any Insolvency Proceeding or Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the

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1 enforcement of judgments or writs of attachment on its assets or pennit such Lender (or such
2 Governmental Authority) to reject, repudiate, disavow or disaffom any contracts or agreements
3 made with such Lender. Any detehmination by the Agent that a Lender is a Defaulting Lender
4 under any one or more of the preceding clauses (a) through (d) shall be conclusive and binding
5 absent manifest enor, and such Lender shall be deemed to be a Defaulting Lender (subject to
6 *Section 3.JO(b)*) upon the Agent's delively of Notice of such dete mination to the Bonower and
7 each Lender.
8

9 "Dollars" or "\$" means United States dollars.
10

11 "Domestic Lending Office" means, initially, the office of each Lender designated as such
12 in *Schedule I* hereto; thereafter, such other office of such Lender, if any, located within the
13 United States that will be making or maintaining any Base Rate Loan.
14

15 "EEA Financial Institution" means (a) any credit institution or investment firm
16 established in any EEA Member Countiy which is subject to the supervision of an EEA
17 Resolution Authority, (b) any entity established in an EEA Member Countiy which is a parent of
18 an institution described in clause (a) of this definition, or (c) any financial institution established
19 in an EEA Member Countiy which is a subsidiaiy of an institution described in clauses (a) or (b)
20 of this definition and is subject to consolidated supervision with its paient.
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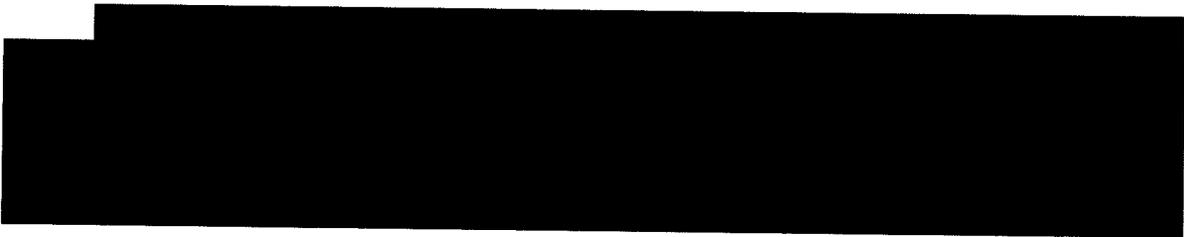
22 "EEA Member Countiy" means any of the member states of the European Union,
23 Iceland, Liechtenstein and No lway.
24

25 "EEA Resolution Authority" means any public adminisl'lative authority or any Person
26 entilted with public administiative authority of any EEA Member Countiy (including any
27 delegee) having responsibility for the resolution of any EEA Financial Institution.
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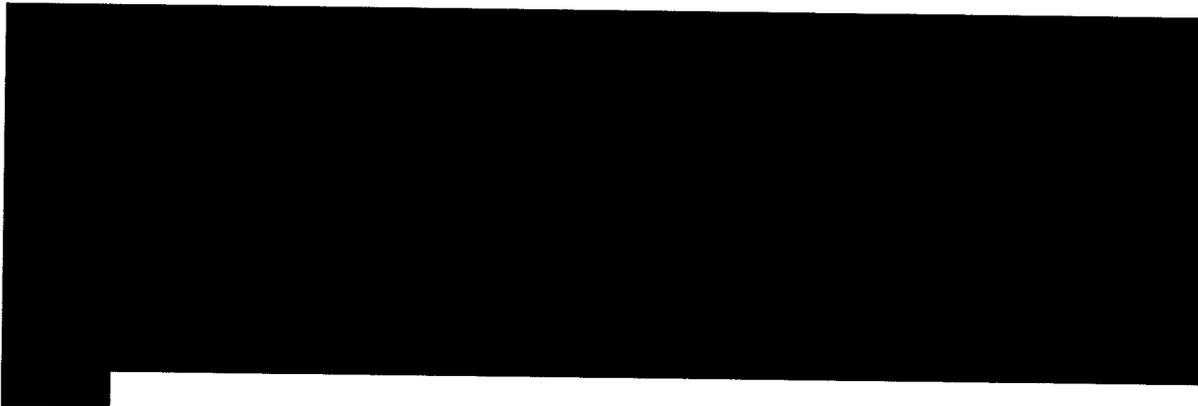
29 "Effective Date" means the date on which all of the conditions precedent set forth in
30 *Section 6.01* have been satisfied or waived, which is September 30, 2019.
31

32 "Eligible Assignee" means (i) any Lender, (ii) an affiliate of any Lender and (iii) any
33 other Person that is approved by the Agent and, unless an Event of Default has ocuned and is
34 continuing at the time any such assignment is effected in accordance with the provisions of
35 *Section J 0.06(b)*, the Bonower, such approval not to be unreasonably withheld or delayed;
36 provided however, that neither the Bonower nor any affiliate of the Bonower, nor any
37 Defaulting Lender, shall qualify as an Eligible Assignee.
38

39 "Employee Benefit Plan" means any employee benefit plan within the meaning of
40 Section 3(3) of ERISA maintained or cont'l'ibuted to by the Bonower or any ERISA Affiliate,
41 other than a Multiemployer Plan.
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4 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended,
5 and the regulations promulgated thereunder.

6
7 "ERISA Affiliate" means any Person that is treated as a single employer with the
8 Bonower under Section 414 of the Code.

9
10 "ERISA Reportable Event" means a reportable event with respect to a Guaranteed
11 Pension Plan within the meaning of Section 4043 of ERISA as to which the requirement of
12 notice has not been waived.

13
14 "EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published
15 by the Loan Market Association (or any successor Person), as in effect from time to time.

16
17 "Eurocurrency Reserve Rate" means, for any Interest Period for any Eurodollar Rate
18 Loan, the average maximum rate at which reserves (including, without limitation, any marginal,
19 supplemental or emergency reserves) are required to be maintained during such Interest Period
20 under Regulation D by member banks of the Federal Reserve System in New York City with
21 deposits against "Eurocurrency liabilities" (as such term is used in Regulation D) in effect two
22 (2) Eurodollar Business Days before the first day of such Interest Period. Without limiting the
23 effect of the foregoing, the Eurocurrency Reserve Rate shall include any other reserves required
24 to be maintained by such member banks by reason of any Regulatory Change with respect to (i)
25 any category of liabilities that includes deposits by reference to which the Eurodollar Rate is to
26 be determined as provided in the definition of "Eurodollar Rate" in this *Section 1.01* or (ii) any
27 category of extensions of credit or other assets that includes Eurodollar Rate Loans.

28
29 "Eurodollar Business Day" means any Business Day on which commercial banks are
30 open for international business (including dealings in Dollar deposits) in London.

31
32 "Eurodollar Lending Office" means, initially, the office of each Lender designated as
33 such in Schedule I hereto; thereafter, such other office of such Lender, if any, that shall be
34 making or maintaining any Eurodollar Rate Loan.

35
36 "Eurodollar Rate" means, for any Interest Period with respect to a Eurodollar Rate Loan,
37 the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on
38 Reuters LIBOR01 Page (or any successor page, the "LIBO Screen Rate") as the London
39 interbank offered rate for deposits in Dollars ("LIBOR") at approximately 11:00 a.m., London

1 time, two (2) Eurodollar Business Days prior to the first day of such Interest Period for a term
2 comparable to such Interest Period, divided by one (1) minus the Eurocurrency Reserve Rate for
3 such Loan for such Interest Period; *provided* that if the Eurodollar Rate shall be less than zero,
4 such rate shall be deemed to be zero for purposes of this Agreement.
5

6 “Eurodollar Rate Loan” means all or any portion of any Loan bearing interest calculated
7 by reference to the Eurodollar Rate.
8

9 “Event of Default” has the meaning specified in Article 7.
10

11 “Exchange Act” means the Securities Exchange Act of 1934, as amended, and the
12 regulations promulgated thereunder.
13

14 “Excluded Taxes” means any of the following Taxes imposed on or with respect to a
15 Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes
16 imposed on or measured by net income (however denominated), franchise Taxes, and branch
17 profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the
18 laws of, or having its principal office or, in the case of any Lender, its applicable lending office
19 located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are
20 Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on
21 amounts payable to or for the account of such Lender with respect to an applicable interest in a
22 Loan pursuant to a law in effect on the date on which (i) such Lender acquires such interest in
23 such Loan (other than pursuant to an assignment request by the Borrower under *Section 2.08*), or
24 (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to
25 *Section 3.09*, amounts with respect to such Taxes were payable either to such Lender’s assignor
26 immediately before such Lender became a party hereto or to such Lender immediately before it
27 changed its lending office, (c) Taxes attributable to such Recipient’s failure to comply with
28 *Section 3.09(e)*, and (d) any U.S. federal withholding Taxes imposed under FATCA.
29

30 “FASB ASC 715” means Financial Accounting Standards Board Accounting Standards
31 Codification 715, Compensation – Retirement Benefits.
32

33 “FASB ASC 810” means Financial Accounting Standards Board Accounting Standards
34 Codification 810, Consolidation.
35

36 “FATCA” means Sections 1471 through 1474 of the Code, as of the Effective Date (or
37 any amended or successor version that is substantively comparable and not materially more
38 onerous to comply with) and any current or future regulations or official interpretations thereof
39 and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or
40 regulatory legislation, rules or official practices adopted pursuant to any published
41 intergovernmental agreement entered into in connection with the implementation of such
42 sections of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant
43 to such published intergovernmental agreements.
44

45 “Federal Funds Rate” means, for any day, the rate per annum (rounded upwards, if
46 necessary to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight
47 Federal funds transactions with members of the Federal Reserve System on such day, as
48 published by the Federal Reserve Bank of New York on the Business Day next succeeding such

1 day, provided that (a) if the day for which such rate is to be detennined is not a Business Day,
2 the Federal Funds Rate for such day shall be such rate on such trnsactions on the next preceding
3 Business Day as so published on the next succeeding Business Day and (b) if such rate is not so
4 published for any Business Day, the Federal Funds Rate for such Business Day shall be the
5 average rate charged to the Agent on such Business Day on such trnsactions as determined by
6 the Agent; *provided* that if the Federal Funds Rate shall be less than zero, such rate shall be
7 deemed to be zero for pmposes of this Agreement.
8

9 "Federal Reserve Board" means the Board of Governors of the Federal Reserve System.

10 "Fitch" means Fitch Ratings.

11 "Foreign Lender" means a Lender that is not a U.S. Person.
12

13 "FPSC Financing Order" means the Final Order Granting Modification of Gulf Power's
14 Authority to Issue and Sell Secmities and to Receive Common Equity Contiibutions issued by
15 the Florida Public Service Commission on Febmai 25, 2019, as Order No. PSC-2019-0070-
16 FOF-EI, as modified by Amendatoly Order issued by the Florida Public Service Commission on
17 May 31, 2019 as Order No. PSC-2019-0070A-FOF-EI, and each successive order of the Florida
18 Public Service Commission granting authority to the BoITower to issue and sell secmities, as
19 applicable.
20

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1

II [REDACTED]

2

II [REDACTED]

3

II [REDACTED]

[REDACTED]

4

II [REDACTED]

5

II [REDACTED]

6

II [REDACTED]

7

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10

11

12

"generally accepted accounting principles" means generally accepted accounting principles, as recognized by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board, consistently applied and maintained on a consistent basis for the BoITower and its Subsidiaries throughout the period indicated and (subject to *Section 1.03*) consistent with the prior financial practice of the BoITower and its Subsidiaries.

17

18

"Governmental Authority" means, as to any Person, any government (or any political subdivision or jurisdiction thereof), comi, bureau, agency or other governmental authority having jurisdiction over such Person or any of its business, operations or prop e lies.

21

22

"Guaranteed Pension Plan" means any employee pension benefit plan within the meaning of Section 3(2) of ERIS.A that is subject to Title IV of ERISA and that is maintained or contributed to by the BoITower or any ERIS.A Affiliate or in respect of which the BoITower or any ERIS.A Affiliate could be reasonably expected to have liability, other than a Multiemployer Plan.

26

1 “Immediately Available Funds” means funds with good value on the day and in the city
2 in which payment is received.
3

4 “Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with
5 respect to any payment made by or on account of any obligation of the Borrower under any Loan
6 Document and (b) to the extent not otherwise described in the preceding clause (a), Other Taxes.
7

8 “Indemnitee” has the meaning specified in *Section 10.04*.
9

10 “Indemnity Claim” has the meaning specified in *Section 10.04*.
11

12 “Insolvency Proceeding” means, with respect to any Person, (a) any case, action or
13 proceeding with respect to such Person before any competent court or other Governmental
14 Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership,
15 dissolution, administrative receivership, administration, winding-up or relief of debtors, or (b)
16 any general assignment for the benefit of creditors, composition, marshalling of assets for
17 creditors, or other, similar arrangement in respect of its creditors generally or any substantial
18 portion of its creditors, undertaken under any U.S. Federal or state or any foreign law.
19

20 “Interest Payment Date” means (a) as to any Base Rate Loan, the last day of each
21 calendar quarter; (b) as to any Eurodollar Rate Loan in respect of which the Interest Period is (i)
22 three (3) months or less, the last day of such Interest Period and (ii) more than three (3) months,
23 the date that is three (3) months from the first day of such Interest Period and, in addition, the
24 last day of such Interest Period; and (c) as to all Loans, the Maturity Date.
25

26 “Interest Period” means, with respect to any particular Eurodollar Rate Loan, the period
27 which (i) initially commences on either (A) the Borrowing or (B) the date of Conversion of all or
28 any portion of any particular Base Rate Loan into a Eurodollar Rate Loan, as the case may be,
29 and ends one (1), two (2), three (3) or six (6) months thereafter as selected by the Borrower; and
30 (ii) thereafter, each period commencing on the last day of the next preceding Interest Period and
31 ending on the last day of one of the periods set forth above, as selected by the Borrower in an
32 Interest Rate Notice; *provided*, that all of the foregoing provisions relating to Interest Periods are
33 subject to the following:
34

- 35 (a) if any Interest Period would otherwise end on a day that is not a Eurodollar
36 Business Day, then such Interest Period shall end on the next succeeding
37 Eurodollar Business Day unless the next succeeding Eurodollar Business Day
38 falls in another calendar month, in which case such Interest Period shall end on
39 the immediately preceding Eurodollar Business Day;
40
- 41 (b) if the Borrower shall fail to give Notice as provided in *Section 2.06*, the Borrower
42 shall be deemed to have requested a new Eurodollar Rate Loan with an Interest
43 Period of equal duration as the immediately preceding Interest Period;
44
- 45 (c) if any Interest Period begins on the last Eurodollar Business Day of a calendar
46 month (or on a day for which there is no numerically corresponding day in the
47 calendar month at the end of the Interest Period), then the Interest Period shall end

1 on the last Eurodollar Business Day of the calendar month at the end of such
2 Interest Period; and

3
4 (d) no Interest Period shall extend beyond the Maturity Date.

5
6 "Interest Rate Notice" means a Notice given by the BoITower to the Agent (in
7 substantially the form set forth in *Exhibit C*) specifying the BoITower's election to Convert all or
8 any portion of the Loans, or specifying the Interest Period with respect to all or any portion of
9 any Eurodollar Rate Loans, or to continue the Loans for an additional Interest Period in
10 accordance with *Section 2.06*.

11
12 "Lenders" means each of the lending institutions listed on *Schedule I* hereto so long as
13 such Lender has an Outstanding Loan hereunder and any other Person who becomes an assignee
14 of any rights and obligations of a Lender pursuant to *Section 10.06*.

15
16 "Liabilities" has the meaning specified in *Section 10.04*.

17
18 "LIBOR" has the meaning specified in the definition of Eurodollar Rate.

19
20 "LIBO Screen Rate" has the meaning specified in the definition of Eurodollar Rate.

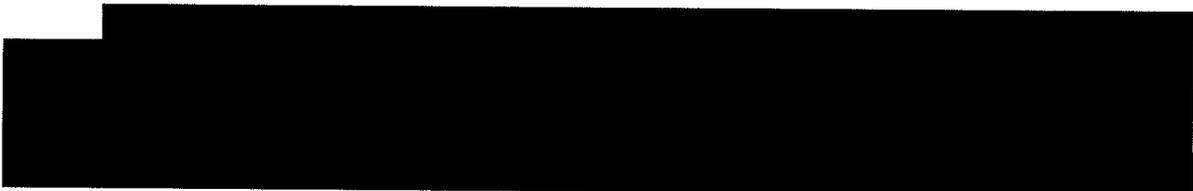
21
22 "Lien" means any mortgage, pledge, lien, security interest or other charge or
23 encumbrance with respect to any present or future assets of the Person referred to in the context
24 in which the term is used.

25
26 "Loan" means the aggregate principal amount advanced by each Lender as a Loan or
27 Loans to the BoITower under *Section 2.01*.

28
29 "Loan Documents" means this Agreement, any Note or certificate or other document
30 executed and delivered by the BoITower in connection herewith.

31
32 "Loans" means, as applicable, a portion of the Loan that either (a) bears interest by
33 reference to the Base Rate or (b) bears interest by reference to the Eurodollar Rate and has a
34 single Interest Period, which in the case of the preceding clauses (a) and (b), together, constitute
35 the aggregate principal amount of the Loans of all Lenders Outstanding at the time referred to in
36 the context in which the term is used.

37
38 "Majority Lenders" means Lenders having more than fifty percent (50%) of the aggregate
39 amount of the commitments, or, if the commitments shall have terminated, Lenders holding more
40 than fifty percent (50%) of the aggregate unpaid principal amount of the Loans; provided that the
41 commitment of any Defaulting Lender shall be excluded for the purposes of making a determination of Majority Lenders.





1
3
4 "Master Agreement" has the meaning specified in the definition of "Swap Contract".

5 "Maturity Date" means September 30, 2021.

6 "Moody's" means Moody's Investors Service, Inc.

7
8 "Multiemployer Plan" means any multiemployer plan within the meaning of Section
9 3(37) of ERISA to which the BoITower or any ERISA Affiliate contributes or has an obligation
10 to contribute or has within any of the preceding five plan years contributed or had an obligation
11 to contribute.

12
13 "NextEra Energy" means NextEra Energy, Inc., a Florida corporation.

14
15 "Non-Defaulting Lenders" means, at any particular time, each Lender that is not a
16 Defaulting Lender at such time.

17 "Norecourse Indebtedness" has the meaning specified in Section 5.18(a).

18
19 "Note" means a promissory note provided for by Section 2.03(b), including (as
20 applicable) all amendments thereto and restatements thereof and all promissory notes delivered
21 in substitution or exchange therefor (including any amended and restated note issued pursuant to
22 this Agreement).

23
24 "Notice" has the meaning specified in Section 10.02.

25
26 "One Month LIBOR" means the ICE Benchmark Administration Settlement Rate
27 applicable to Dollars for a period of one (1) month (for the avoidance of doubt, One Month
28 LIBOR for any day shall be based on the rate appearing on Reuters LIBOR01 Page (or other
29 commercially available source providing such quotations as designated by the Agent from time
30 to time) at approximately 11:00 a.m London time two (2) Eurodollar Business Days prior to such
31 day); *provided* that if One Month LIBOR shall be less than zero, such rate shall be deemed to be
32 zero for purposes of this Agreement.

33
34 "Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a
35 result of a present or former connection between such Recipient and the jurisdiction imposing
36 such Tax (other than connections arising from such Recipient having executed, delivered,
37 become a party to, performed its obligations under, received payments under, received or
38 perfected a security interest under, engaged in any other transaction pursuant to or enforced any
39 Loan Document, or sold or assigned an interest in any Loan or Loan Document).

40
41 "Other Taxes" means all present or future stamp, comi or documentaiy, intangible,
42 recording, filing or similar Taxes that arise from any payment made under, from the execution,
43 delivery, performance, enforcement or registration of, from the receipt or perfection of a security
44 interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are

1 Other Connection Taxes imposed with respect to an assignment (other than an assignment made
2 pursuant to Sections 2.08, 3.03 or 3.04).
3

4 “Outstanding” means, with respect to any Loan, the aggregate unpaid principal amount
5 thereof as of any date of determination.
6

7 “Participant” has the meaning specified in *Section 10.06(d)*.
8

9 “Participant Register” has the meaning specified in *Section 10.06(d)*.
10

11 “Parties” and “Party” have the meanings specified in the Preamble.
12

13 “PBGC” means the Pension Benefit Guaranty Corporation created by Section 4002 of
14 ERISA and any successor entity or entities having similar responsibilities.
15

16 “Person” means any individual, corporation, partnership, trust, unincorporated
17 association, business, or other legal entity, and any government or any governmental agency or
18 political subdivision thereof.
19

20 “Prime Rate” means, for any day, a rate per annum equal to the prime rate of interest
21 announced from time to time by the Agent as its prime lending rate for such day, changing when
22 and as changes to said prime rate are announced.
23

24 “Pro Rata Share” means, in respect of any Lender as of the date of any determination, the
25 proportion which such Lender’s Loans Outstanding bear to the total amount of Loans
26 Outstanding.
27

28 “Rating Agency” means any of Fitch, Moody’s or Standard & Poor’s.
29

30 “Recipient” means the Agent and any Lender.
31

32 “Register” has the meaning specified in *Section 10.06(c)*.
33

34 “Regulations A, D, U and X” means, respectively, Regulations A, D, U and X of the
35 Federal Reserve Board (or any successor).
36

37 “Regulatory Change” means, with respect to any Lender, any change after the date of this
38 Agreement in Federal, state or foreign law or regulations (including, without limitation,
39 Regulation D) or the adoption, making or change in after such date of any interpretation,
40 directive or request applying to a class of banks including such Lender of or under any Federal,
41 state or foreign law or regulations (whether or not having the force of law and whether or not the
42 failure to comply therewith would be unlawful) by any court or governmental or monetary
43 authority charged with the interpretation or administration thereof.
44

45 “Related Parties” means, with respect to any Person, such Person’s affiliates and the
46 partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and
47 representatives of such Person and of such Person’s affiliates.

1 "Requirement of Law" means, as to any Person, the certificate of incorporation and by-
2 laws or other organizational or governing documents of such Person, and any law (including
3 common law), statute, ordinance, treaty, rule, regulation, order, decree, judgment, writ,
4 injunction, settlement agreement, requirement or determination of an arbitrator or a court or
5 other Governmental Authority, in each case applicable to or binding upon such Person or any of
6 its property or to which such Person or any of its property is subject.
7

8 "Sanctions" means, sanctions administered or enforced by the US Department of the
9 Treasury's Office of Foreign Assets Control (OFAC), US Department of State, United Nations
10 Security Council, European Union, Her Majesty's Treasury, or other relevant sanctions
11 authority.
12

13 "Standard & Poor's" means S&P Global Ratings.
14

15 "Subsidiary" means any corporation, association, trust, or other business entity of which
16 the BoITower (or where the context requires, NextEra Energy) shall at any time own directly or
17 indirectly through a Subsidiary or Subsidiaries at least a majority (by number of votes) of the
18 outstanding Voting Stock.
19

20 "Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit
21 derivative transactions, forward rate transactions, commodity swaps, commodity options,
22 forward commodity contracts, equity or equity index swaps or options, bond or bond price or
23 bond index swaps or options or forward bond or forward bond price or forward bond index
24 transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor
25 transactions, collar transactions, currency swap transactions, cross-currency rate swap
26 transactions, currency options, spot contracts, or any other similar transactions or any
27 combination of any of the foregoing (including any options to enter into any of the foregoing),
28 whether or not any such transaction is governed by or subject to any master agreement, and (b)
29 any and all transactions of any kind, and the related confirmations, which are subject to the terms
30 and conditions of, or governed by, any form of master agreement published by the International
31 Swaps and Derivatives Association, Inc. or any International Foreign Exchange Master
32 Agreement (any such master agreement, together with any related schedules, a "Master
33 Agreement"), including any such obligations or liabilities under any Master Agreement.
34

35 [REDACTED]

36 [REDACTED]

37 [REDACTED]

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[REDACTED]

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholdings), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

[REDACTED]

9

" f' has the meaning specified in *Section 1.02(h)*.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning specified in paragraph (ii) of *Section 3.09(e)*.

"Voting Stock" means stock or similar interest, of any class or classes (however designated), the holders of which are at the time entitled, as such holders, to vote for the election of a majority of the directors (or persons performing similar functions) of the corporation, association, trust or other business entity involved, whether or not the right so to vote exists by reason of the happening of a contingency.

"Withholding Agent" means the Bonower or the Agent.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.02. Rules of Interpretation.

(a) A reference to any document or agreement shall include such document or agreement, including any schedules or exhibits thereto, as any of same may be amended, modified or supplemented from time to time in accordance with its terms and, if applicable, the terms of this Agreement.

(b) The singular includes the plural and the plural includes the singular.

37

1 (a) The Borrower shall give a Borrowing Notice in substantially the form of *Exhibit*
2 A (or telephonic notice, promptly confirmed in writing) to the Agent prior to 11:00 a.m., New
3 York, New York time (i) on the proposed Borrowing Date in the case of a Base Rate Loan and
4 (ii) at least two (2) Eurodollar Business Days prior to the proposed Borrowing Date in the case of
5 a Eurodollar Rate Loan, specifying (A) the Borrowing Date (which shall be a Business Day), (B)
6 whether the requested Borrowing is of a Base Rate Loan or a Eurodollar Rate Loan, or any
7 combination thereof as permitted under the terms of this *Section 2.02*, and the amount of each
8 and (C) in the case of each Eurodollar Rate Loan, the initial Interest Period applicable thereto.
9

10 (b) The Agent shall give written or telephonic notice (confirmed in writing) to each
11 of the Lenders promptly upon receipt of the Borrowing Notice.
12

13 (c) Each of the Lenders shall, not later than noon, New York, New York time, on the
14 Borrowing Date, make immediately available funds in Dollars in the amount of such Lender's
15 Loan available to the Agent at the office of the Agent, by wire transfer at its address set forth in
16 Section 10.02(b). After the Agent's receipt of such funds and upon fulfillment of the applicable
17 conditions set forth in Section 6.01, the Agent will make such funds available to the Borrower by
18 crediting the Borrower's designated account in accordance with the wire instructions included in
19 the Borrowing Notice.
20

21 (d) Any notice delivered or given by the Borrower to the Agent as provided in this
22 *Section 2.02* shall be irrevocable and binding upon the Borrower upon receipt by the Agent.
23 Each Borrowing shall be in the principal amount of [REDACTED] or any integral multiple of
24 [REDACTED] in excess thereof. In no event shall the Borrower select Interest Periods and
25 Types of Loans which would have the result that there shall be more than six (6) different
26 Interest Periods for Loans outstanding at the same time (for which purpose Interest Periods for
27 Loans of different Types shall be deemed to be different Interest Periods even if the Interest
28 Periods begin and end on the same dates).
29

30 (e) The Borrower shall have the right, at any time and from time to time, to prepay
31 the Loans in whole or in part, without penalty or premium, upon not less than three (3) Business
32 Days' prior Notice (or telephonic notice promptly confirmed in writing) given to the Agent not
33 later than 11:00 A.M. (New York City time), in the case of Eurodollar Rate Loans and same day
34 written Notice (or telephonic notice promptly confirmed in writing) to the Agent not later than
35 11:00 A.M. (New York City time) in the case of Base Rate Loans; *provided* that (i) each
36 prepayment shall be in the principal amount of [REDACTED] or any integral multiple of
37 [REDACTED] in excess thereof, or equal to the remaining principal balance outstanding under
38 such Loan, and (ii) in the event that the Borrower shall prepay any portion of any Eurodollar
39 Rate Loan prior to the last day of the Interest Period relating thereto, the Borrower shall
40 indemnify each of the Lenders in respect of such prepayment in accordance with *Section 3.08*.
41

42 (f) Unless the Agent shall have received notice from a Lender prior to the time of any
43 Borrowing that such Lender will not make available to the Agent such Lender's ratable portion
44 of such Borrowing, the Agent may assume that such Lender has made such portion available to
45 the Agent on the date of such Borrowing in accordance with Section 2.02(a) and the Agent may,
46 in reliance upon such assumption, make available to the Borrower on such date a corresponding
47 amount. If and to the extent that such Lender shall not have so made such ratable portion

1 available to the Agent, such Lender and the Borrower severally agree to repay to the Agent
2 forthwith on demand such corresponding amount together with interest thereon, for each day
3 from the date such amount is made available to the Borrower until the date such amount is repaid
4 to the Agent, at (i) in the case of the Borrower, the interest rate applicable at the time to
5 Borrowings of such Type and (ii) in the case of such Lender, the Federal Funds Rate. If such
6 Lender shall repay to the Agent such corresponding amount, such amount so repaid shall
7 constitute such Lender's Loan as part of such Borrowing for purposes of this Agreement.
8

9 (g) The failure of any Lender to make any Loan to be made by it on the date specified
10 therefor shall not relieve any other Lender of its obligation to make its Loan on such date, but
11 neither any Lender nor the Agent shall be responsible for the failure of any other Lender to make
12 a Loan to be made by such other Lender.
13

14 Section 2.03. Evidence of Indebtedness.
15

16 (a) The Loans made by each Lender shall be evidenced by one or more
17 accounts or records maintained by such Lender and by the Agent in the ordinary course of
18 business. The accounts or records maintained by the Agent and each Lender shall be conclusive
19 absent manifest error. Any failure to so record or any error in doing so shall not, however, limit
20 or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with
21 respect to its obligations hereunder. In the event of any conflict between the accounts and
22 records maintained by any Lender and the accounts and records of the Agent in respect of such
23 matters, the accounts and records of the Agent shall control in the absence of manifest error.
24

25 (b) If specifically requested by any particular Lender in writing furnished to
26 the Borrower, the Borrower's obligation to pay the principal of, and interest on, the Loans made
27 by such Lender shall be evidenced by a promissory note duly executed and delivered by the
28 Borrower, such Note to be substantially in the form of Exhibit B with blanks appropriately
29 completed in conformity herewith (each, a "Note" and, collectively, the "Notes").
30

31 (c) The Note issued to any Lender shall (i) be payable to the order of such Lender,
32 (ii) be dated as of the Effective Date, (iii) be in a stated maximum principal amount equal to the
33 commitment of such Lender, (iv) mature on the Maturity Date, (v) bear interest as provided in
34 this Agreement, and (vi) be entitled to the benefits of this Agreement and the other Loan
35 Documents.
36

37 (d) Each Lender will advise the Borrower of the outstanding indebtedness
38 hereunder to such Lender upon written request therefor.
39

40 Section 2.04. Mandatory Payment. The Loans will mature on the Maturity Date and the
41 Borrower unconditionally promises to pay to the Agent for account of each Lender the entire
42 unpaid principal amount of such Lender's Loans Outstanding on the Maturity Date plus all
43 accrued and unpaid interest thereon and all other amounts then due hereunder.

1 Section 2.05. Interest.
2

3 (a) Each of the Loans shall bear interest at the following rates:
4

5 (i) To the extent that all or any portion of any Loan is a Eurodollar
6 Rate Loan, such Loan or such portion shall bear interest during each applicable Interest
7 Period at a rate per annum equal [REDACTED]
8 [REDACTED]

9 (ii) To the extent that all or any portion of any Loan is a Base Rate
10 Loan, such Loan or such portion shall bear interest at a rate per annum equal [REDACTED]
11 [REDACTED]

12 (b) The Borrower promises to pay interest on each Loan or any portion
13 thereof Outstanding in arrears on (i) each Interest Payment Date applicable to such Loan and (ii)
14 upon the payment or prepayment thereof or the Conversion thereof to a Loan of another Type
15 (but only on the principal amount so paid, prepaid or Converted).
16

17 (c) After each Loan is made, the Borrower will have the interest rate options
18 described in *Section 2.06* with respect to all or any part of such Loan.
19

20 (d) The Agent shall give prompt Notice to the Borrower of the applicable
21 interest rate determined by the Agent for purposes of clauses (i) or (ii) of *Section 2.05(a)*.
22

23 (e) Overdue principal, and to the extent permitted by applicable law, overdue
24 interest on the Loans and all other overdue amounts payable hereunder or under any Note shall
25 bear interest payable on demand, in the case of (i) overdue principal of or overdue interest on
26 each Loan, at a rate per annum equal to two percent (2%) above the rate then applicable to such
27 Loan and (ii) any other overdue amounts, at a rate per annum equal to two percent (2%) above
28 the Base Rate, in each case until such amount shall be paid in full (after, as well as before,
29 judgment)
30

31 Section 2.06. Interest Rate Conversion or Continuation Options.
32

33 (a) The Borrower may, subject to *Section 2.07*, *Section 3.03* and *Section 3.04*,
34 elect from time to time to Convert all or any portion of any Loan to a Loan of another Type,
35 provided that (i) with respect to any such Conversion of all or any portion of any Eurodollar Rate
36 Loan to a Base Rate Loan, the Borrower shall give the Agent an Interest Rate Notice (or
37 telephonic notice promptly confirmed in writing) at least one (1) Business Day prior to such
38 Conversion; (ii) in the event of any Conversion of all or any portion of a Eurodollar Rate Loan
39 into a Base Rate Loan prior to the last day of the Interest Period relating to that Eurodollar Rate
40 Loan, the Borrower shall indemnify each Lender in respect of such Conversion in accordance
41 with *Section 3.08*; (iii) with respect to any such Conversion of all or any portion of a Base Rate
42 Loan to a Eurodollar Rate Loan, the Borrower shall give the Agent an Interest Rate Notice (or
43 telephonic notice promptly confirmed in writing) at least three (3) Eurodollar Business Days
44 prior to such election; and (iv) no Loan may be Converted into a Eurodollar Rate Loan when any
45 Default has occurred and is continuing. On the date on which such Conversion is being made,
46 any Lender may take such action, if any, as it deems desirable to transfer its Loan to its Domestic

1 Lending Office or its Eurodollar Lending Office, as the case may be. All or any part of Loans of
2 any Type may be Converted as specified herein; *provided* that partial Conversions shall be in an
3 aggregate principal amount of [REDACTED] or any integral multiple of [REDACTED] in
4 excess thereof. The Agent shall notify the Lenders promptly of each such Interest Rate Notice
5 made by the Borrower. Each Interest Rate Notice relating to the Conversion of all or any portion
6 of any Base Rate Loan to a Eurodollar Rate Loan shall be irrevocable by the Borrower.
7

8 (b) Eurodollar Rate Loans may be continued as such upon the expiration of an
9 Interest Period with respect thereto by compliance by the Borrower with the notice provisions
10 contained in *Section 2.06(a)*; *provided* that no Eurodollar Rate Loan may be continued as such
11 when any Event of Default has occurred and is continuing, but shall be automatically Converted
12 to a Base Rate Loan on the last day of the first Interest Period that ends during the continuance of
13 any Event of Default of which the officers of the Agent active upon the Borrower's account have
14 actual knowledge.
15

16 (c) Any Conversion to or from Eurodollar Rate Loans shall be in such
17 amounts and be made pursuant to such elections so that, after giving effect thereto, the aggregate
18 principal amount of all Eurodollar Rate Loans having the same Interest Period shall not be less
19 than [REDACTED] or any integral multiple of [REDACTED] in excess thereof.
20

21 (d) Except to the extent otherwise expressly provided herein, (i) each
22 Borrowing of Loans from the Lenders hereunder, each Conversion or continuation of all or a
23 portion of any Loan of a particular Type hereunder, and each payment of fees hereunder, shall be
24 effected pro rata among the Lenders in accordance with the amounts of their respective Pro Rata
25 Share and (ii) each payment of interest on Loans by the Borrower shall be made for account of
26 the Lenders pro rata in accordance with the amounts of interest on such Loans then due and
27 payable to the respective Lenders.
28

29 (e) Upon the expiration of any Interest Period, the Borrower shall be deemed
30 to have requested a new Interest Period of equal duration as the immediately preceding Interest
31 Period unless, at least three (3) Business Days prior to said expiration, the Borrower shall have
32 delivered to the Agent an Interest Rate Notice (or telephonic notice promptly confirmed in
33 writing) specifying a new Interest Period of a different duration.
34

35 Section 2.07. Computation of Interest and Fees.
36

37 (a) On the date on which the aggregate unpaid principal amount of Eurodollar Rate
38 Loans comprising any Borrowing shall be reduced, by payment or prepayment or
39 otherwise, to less than [REDACTED], such Loans shall automatically Convert
40 into Base Rate Loans.
41

42 (b) Upon the occurrence and during the continuance of any Event of Default (i) each
43 Eurodollar Rate Loan will automatically, on the last day of the then existing
44 Interest Period therefor, Convert into a Base Rate Loan and (ii) the obligation of
45 the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be
46 suspended.

1 Section 2.08. Replacement of Lenders. If (i) any Lender requests compensation under
2 *Section 3.05* or *Section 3.06*, (ii) the Borrower is required to pay any additional amount to any
3 Lender or any Governmental Authority for the account of any Lender pursuant to *Section 3.09*,
4 (iii) any Lender is not able to make or maintain its Loans as a result of any event or circumstance
5 contemplated in *Section 3.04*, (iv) any Lender is a Defaulting Lender, or (v) any Lender fails to
6 consent to an election, consent, amendment, waiver or other modification to this Agreement or
7 any other Loan Document that requires consent of a greater percentage of the Lenders than the
8 Majority Lenders (a "Non-Consenting Lender"), and such election, consent, amendment, waiver
9 or other modification is otherwise consented to by the Majority Lenders, then the Borrower may,
10 at its sole expense and effort, upon Notice to such Lender and the Agent, require such Lender to
11 assign and delegate, without recourse (in accordance with and subject to the restrictions
12 contained in, and consents required by, *Section 10.06*), all of its interests, rights and obligations
13 under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume
14 such obligations (which Eligible Assignee may be another Lender, if such Lender accepts such
15 assignment); *provided* that:

- 16
- 17 (a) any such assignment resulting from a claim against the Borrower for additional
18 compensation pursuant to *Section 3.05* or *Section 3.06* or a requirement that the
19 Borrower pay an additional amount pursuant to *Section 3.09* has the effect of
20 reducing the amount that the Borrower otherwise would have been obligated to
21 pay under those sections;
 - 22
 - 23 (b) no such assignment shall conflict with applicable law;
 - 24
 - 25 (c) the Borrower shall have paid to the Agent the assignment fee specified in *Section*
26 *10.06(b)*;
 - 27
 - 28 (d) in the case of any assignment resulting from a Lender becoming a Non-
29 Consenting Lender, the applicable assignee shall have consented to the applicable
30 amendment, waiver or consent; and
 - 31
 - 32 (e) such Lender shall have received payment of an amount equal to one hundred
33 percent (100%) of the Outstanding amount of its Loans, any accrued and unpaid
34 interest thereon, any accrued and unpaid fees and other accrued and unpaid
35 amounts payable to it hereunder and under the other Loan Documents (including
36 any amounts under *Section 3.08*) from the assignee (to the extent of such
37 Outstanding principal and accrued interest and fees) or the Borrower (in the case
38 of any other accrued and unpaid amounts).
 - 39

40 **ARTICLE 3 - CERTAIN GENERAL PROVISIONS.**

41 **Section 3.01. Funds for Payments.**

42 (a) All payments of principal, interest, fees and any other amounts due
43 hereunder or under any of the other Loan Documents shall be made to the Agent, without
44 counterclaim or setoff except as provided in Article 8, at the offices of the Agent, at its address
45 set forth in Schedule I hereto, for the respective accounts of the Lenders, in Immediately
46 Available Funds, not later than 2:00 p.m., New York, New York time, on the due date therefor.
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1 Any payment received by the Agent after 2:00 p.m., New York, New York time, shall be deemed
2 to have been received on the next succeeding Business Day. The Agent will promptly thereafter
3 cause to be distributed like funds relating to the payment of principal or interest or fees ratably
4 (other than amounts payable pursuant to *Sections 3.05, 3.06, 3.08, 3.09* and Article 10 to the
5 Lenders for the account of their respective Applicable Lending Offices, and like funds relating to
6 the payment of any other amount payable to any Lender to such Lender for the account of its
7 Applicable Lending Office, in each case to be applied in accordance with the terms of this
8 Agreement; provided that, for the purpose of calculating any Lender's Pro Rata Share of any
9 payment hereunder, payments to each such Lender shall include any amounts set off by the
10 Borrower against such Lender pursuant to *Section 8.02*.
11

12 (b) Unless the Agent shall have received Notice from the Borrower prior to
13 the date on which any payment is due to the Lenders that the Borrower will not make such
14 payment in full, the Agent may assume that the Borrower has made such payment in full to the
15 Agent on such date and the Agent may, in reliance upon such assumption, cause to be distributed
16 to each Lender on such due date an amount equal to the amount then due such Lender. If and to
17 the extent the Borrower shall not have so made such payment in full to the Agent or each Lender,
18 as the case may be, the Borrower shall repay to the Agent forthwith on demand such amount
19 distributed to such Lender, together with interest thereon, for each day from the date such
20 amount is distributed to such Lender until the date such Lender, repays such amount to the
21 Agent, at the Federal Funds Rate.
22

23 Section 3.02. Computations. All computations of interest based on the Prime Rate shall
24 be made by the Agent on the basis of a year of 365 or 366 days, as the case may be, and all
25 computations of interest based on the Eurodollar Rate or the Federal Funds Rate and of fees shall
26 be made by the Agent on the basis of a year of 360 days, in each case for the actual number of
27 days (including the first day but excluding the last day) occurring in the period for which such
28 interest or fees are payable. Except as otherwise provided in the definition of the term "Interest
29 Period" with respect to any Eurodollar Rate Loan, whenever a payment hereunder or under any
30 of the other Loan Documents becomes due on a day that is not a Business Day, the due date for
31 such payment shall be extended to the next succeeding Business Day, and interest on any
32 principal so extended shall accrue during such extension.
33

34 Section 3.03. Inability to Determine Eurodollar Rate. (a) In the event, prior to the
35 commencement of any Interest Period relating to any Eurodollar Rate Loans, the Agent shall
36 determine or be notified by the Majority Lenders that adequate and reasonable methods do not
37 exist for ascertaining the Eurodollar Rate that would otherwise determine the rate of interest to
38 be applicable to any Eurodollar Rate Loan, or that the Eurodollar Rate will not adequately reflect
39 the cost to the Majority Lenders of making, funding or maintaining their Eurodollar Rate Loans,
40 during any Interest Period, the Agent shall forthwith give Notice of such determination (which
41 shall be conclusive and binding on the Borrower and the Lenders) to the Borrower and the
42 Lenders. In such event (i) any Interest Rate Notice with respect to Eurodollar Rate Loans shall
43 be automatically withdrawn and any Interest Rate Notice shall be deemed to be a request for a
44 Base Rate Loan, (ii) each Eurodollar Rate Loan will automatically, on the last day of the then
45 current Interest Period thereof, become a Base Rate Loan, and (iii) the obligations of the Lenders
46 to make Eurodollar Rate Loans shall be suspended until the Agent or the Majority Lenders
47 determine that the circumstances giving rise to such suspension no longer exist, whereupon the
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1 Agent or the Agent upon the instruction of the Majority Lenders, shall so notify the Borrower
2 and the Lenders.
3

4 (b) If at any time the Agent determines (which determination shall be
5 conclusive absent manifest error) that (i) that adequate and reasonable methods do not exist for
6 ascertaining the Eurodollar Rate that would otherwise determine the rate of interest to be
7 applicable to any Eurodollar Rate Loan and such circumstance is unlikely to be temporary or (ii)
8 any of (w) the supervisor for the administrator of the LIBO Screen Rate has made a public
9 statement that the administrator of the LIBO Screen Rate is insolvent (and there is no successor
10 administrator that will continue publication of the LIBO Screen Rate), (x) the administrator of
11 the LIBO Screen Rate has made a public statement identifying a specific date after which the
12 LIBO Screen Rate will permanently or indefinitely cease to be published by it (and there is no
13 successor administrator that will continue publication of the LIBO Screen Rate), (y) the
14 supervisor for the administrator of the LIBO Screen Rate has made a public statement identifying
15 a specific date after which the LIBO Screen Rate will permanently or indefinitely cease to be
16 published or (z) the supervisor for the administrator of the LIBO Screen Rate or a Governmental
17 Authority having jurisdiction over the Agent has made a public statement identifying a specific
18 date after which the LIBO Screen Rate may no longer be used for determining interest rates for
19 loans, then the Agent and the Borrower shall endeavor to establish an alternate rate of interest to
20 the LIBO Rate that gives due consideration to the then prevailing market convention for
21 determining a rate of interest for syndicated loans in the United States at such time, and shall
22 enter into an amendment to this Agreement to reflect such alternate rate of interest and such
23 other related changes to this Agreement as may be applicable (but for the avoidance of doubt,
24 such related changes shall not include a reduction of the applicable margin set forth in Section
25 2.05(a)(i)); provided that, if such alternate rate of interest as so determined would be less than
26 zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding
27 anything to the contrary in Section 10.01, such amendment shall become effective without any
28 further action or consent of any other party to this Agreement so long as the Agent shall not have
29 received, within five Business Days of the date such amendment is provided to the Lenders, a
30 written notice from the Majority Lenders stating that such Majority Lenders object to such
31 amendment. Until an alternate rate of interest shall be determined in accordance with this clause
32 (b) (but, in the case of the circumstances described in clause (ii)(w), clause (ii)(x) or clause
33 (ii)(y) of the first sentence of this Section 3.03(b), only to the extent the LIBO Screen Rate for
34 such Interest Period is not available or published at such time on a current basis), (x) any Interest
35 Rate Notice that requests the conversion of any Borrowing to, or continuation of any Borrowing
36 as, a Eurodollar Borrowing shall be ineffective and (y) if any Borrowing Notice requests a
37 Eurodollar Borrowing, such Borrowing shall be made as a Base Rate Borrowing.
38

39 Section 3.04. Illegality. Notwithstanding any other provisions herein, if any present or
40 future law, regulation, treaty or directive or in the interpretation or application thereof shall make
41 it unlawful for any Lender to make or maintain any Eurodollar Rate Loan, such Lender shall
42 promptly give Notice of such circumstances to the Borrower and the other Lenders and
43 thereupon (a) the commitment of such Lender to make any Loan as a Eurodollar Rate Loan or
44 Convert any portion of the Loans of another Type to a Eurodollar Rate Loan shall automatically
45 be suspended, and (b) such Lender's portion of the Loans then outstanding as Eurodollar Rate
46 Loans, if any, shall be Converted automatically to Base Rate Loans on the last day of each
47 Interest Period applicable to each such Eurodollar Rate Loan or within such earlier period as may
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1 be required by law. Notwithstanding anything contained in this *Section 3.04* to the contrary, in
2 the event that any Lender is unable to make or maintain any Loan as a Eurodollar Rate Loan as
3 set forth in this *Section 3.04*, such Lender agrees to use reasonable efforts (consistent with its
4 internal policy and legal and regulatory restrictions) to designate an alternative Eurodollar
5 Lending Office so as to avoid such inability.
6

7 Section 3.05. Additional Costs. If any Change in Law:
8

9 (a) imposes, increases or renders applicable (other than to the extent
10 specifically provided for elsewhere in this Agreement) any special deposit, reserve, assessment,
11 liquidity, capital adequacy or other similar requirements (whether or not having the force of law)
12 against assets held by, or deposits in or for the account of, or loans by, or commitments of an
13 office of any Lender, or
14

15 (b) imposes on any Lender or the Agent any other conditions or requirements
16 with respect to this Agreement, the other Loan Documents, or any Loan or the commitment of
17 such Lender hereunder,
18

19 (c) and the foregoing has the result of:
20

21 (i) increasing the cost or reducing the return to any Lender of making,
22 funding, issuing, renewing, extending or maintaining any Loan as a Eurodollar Rate Loan
23 or maintaining its commitment, or
24

25 (ii) reducing the amount of principal, interest or other amount payable
26 to such Lender hereunder on account of any Loan being a Eurodollar Rate Loan, or
27

28 (iii) requiring such Lender to make any payment or to forego any
29 interest or other sum payable hereunder, the amount of which payment or foregone
30 interest or other sum is calculated by reference to the gross amount of any sum receivable
31 or deemed received by such Lender from the Borrower hereunder,
32

33 then, and in each such case, the Borrower will, upon demand made by such Lender at any time
34 and from time to time and as often as the occasion therefor may arise, pay to such Lender such
35 additional amounts as will be sufficient to compensate such Lender for such additional cost,
36 reduction, payment or foregone interest or other sum. Notwithstanding anything contained in
37 this *Section 3.05* to the contrary, upon the occurrence of any event set forth in this *Section 3.05*
38 with respect to any Lender, such affected Lender agrees to use reasonable efforts (consistent with
39 its internal policy and legal and regulatory restrictions) to designate an alternative Applicable
40 Lending Office so as to avoid the effect of such event set forth in this *Section 3.05*.
41

42 Section 3.06. Capital Adequacy. If any Change in Law affects the amount of capital or
43 liquidity required or expected to be maintained by any Lender or any corporation controlling
44 such Lender due to the existence of the Loans, and such Lender determines that the result of the
45 foregoing is to increase the cost or reduce the return to such Lender of making or maintaining
46 such Loans, then such Lender may notify the Borrower of such fact. To the extent that the costs
47 of such increased capital or liquidity requirements are not reflected in the Base Rate and/or the
48 Eurodollar Rate, the Borrower and such Lender shall thereafter attempt to negotiate in good

1 faith, within thirty (30) days of the day on which the Borrower receives such Notice, an
2 adjustment payable hereunder that will adequately compensate such Lender in light of these
3 circumstances, and in connection therewith, such Lender will provide to the Borrower reasonably
4 detailed information regarding the increase of such Lender's costs. If the Borrower and such
5 Lender are unable to agree to such adjustment within thirty (30) days of the date on which the
6 Borrower receives such Notice, then commencing on the date of such Notice (but not earlier than
7 the effective date of any such increased capital or liquidity requirement), the interest payable
8 hereunder shall increase by an amount that will, in such Lender's reasonable determination,
9 provide adequate compensation. Each Lender agrees that amounts claimed pursuant to this
10 *Section 3.06* shall be made in good faith and on an equitable basis.
11

12 **Section 3.07. Recovery of Additional Compensation.**
13

14 (a) Certificate. If any Lender claims any additional amounts pursuant to
15 *Section 3.05*, *Section 3.06* or *Section 3.08*, as the case may be, it shall provide to the Agent and
16 the Borrower a certificate setting forth such additional amounts payable pursuant to *Section 3.06*,
17 *Section 3.07* or *Section 3.09*, as the case may be, and a reasonable explanation of such amounts
18 which are due (*provided that*, without limiting the requirement that reasonable detail be
19 furnished, nothing herein shall require such Lender to disclose confidential information relating
20 to the organization of its affairs). Such certificate shall be conclusive, absent manifest error, that
21 such amounts are due and owing.
22

23 (b) Delay in Requests. Delay on the part of any Lender to demand
24 compensation pursuant to *Section 3.05*, *Section 3.06* or *Section 3.08*, as applicable, shall not
25 constitute a waiver of such Lender's right to demand such compensation; *provided that* the
26 Borrower shall not be required to compensate such Lender for any increased costs incurred or
27 reductions in returns suffered more than ninety (90) days prior to the date such Lender notifies
28 the Borrower of the Change in Law giving rise to such increased costs or reductions in return,
29 and of such Lender's intention to claim compensation therefor (except that, if the Change in Law
30 giving rise to such increased costs or reductions is retroactive, then the ninety (90) day period
31 referred to above shall be extended to include the period of retroactive effect thereof).
32

33 **Section 3.08. Indemnity.** The Borrower agrees to indemnify each Lender and to hold
34 each Lender harmless from and against any loss, cost or expense (including any such loss or
35 expense arising from interest or fees payable by such Lender to lenders of funds obtained by it in
36 order to maintain any Loan as a Eurodollar Rate Loan) that such Lender may sustain or incur as a
37 consequence of (a) default by the Borrower in payment of the principal amount of or any interest
38 on any Eurodollar Rate Loan as and when due and payable, (b) default by the Borrower in
39 making a prepayment after the Borrower has given a Notice of prepayment pursuant to *Section*
40 *2.02(e)*, (c) default by the Borrower in making a Borrowing after the Borrower has given a
41 Borrowing Notice pursuant to *Section 2.02* or continuing all or any portion of the Loans, after
42 the Borrower has given (or is deemed to have given) pursuant to *Section 2.06(e)* an Interest Rate
43 Notice, (d) the making of any payment of principal of a Eurodollar Rate Loan or any Conversion
44 of any such Eurodollar Rate Loan to a Base Rate Loan on a day that is not the last day of an
45 Interest Period, including interest or fees payable by such Lender to lenders or funds obtained by
46 it in order to maintain any such Eurodollar Rate Loans or (e) the assignment of any Eurodollar

1 Rate Loan prior to the last day of the Interest Period applicable thereto as a result of a request by
2 the Borrower pursuant to Section 2.08.
3

4 Section 3.09. Taxes.
5

6 (a) Payments Free of Taxes. Any and all payments by or on account of any
7 obligation of the Borrower under any Loan Document shall be made without deduction or
8 withholding for any Taxes, except as required by applicable law. If any applicable law (as
9 determined in the good faith discretion of an applicable Withholding Agent) requires the
10 deduction or withholding of any Tax from any such payment by such Withholding Agent, then
11 the applicable Withholding Agent shall be entitled to make such deduction or withholding and
12 shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in
13 accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by
14 the Borrower shall be increased as necessary so that after such deduction or withholding has
15 been made (including such deductions and withholdings applicable to additional sums payable
16 under this *Section 3.09*) the applicable Recipient receives an amount equal to the sum it would
17 have received had no such deduction or withholding been made.
18

19 (b) Payment of Other Taxes by Borrower. The Borrower shall timely pay to
20 the relevant Governmental Authority in accordance with applicable law, or at the option of the
21 Agent timely reimburse it for the payment of, any Other Taxes.
22

23 (c) Indemnification
24

25 (i) Indemnification by Borrower. The Borrower shall indemnify each
26 Recipient, within thirty (30) days after demand therefor, for the full amount of any
27 Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable
28 to amounts payable under this Section) payable or paid by such Recipient or required to
29 be withheld or deducted from a payment to such Recipient and any reasonable expenses
30 arising therefrom or with respect thereto, whether or not such Indemnified Taxes were
31 correctly or legally imposed or asserted by the relevant Governmental Authority. A
32 certificate as to the amount of such payment or liability delivered to the Borrower by a
33 Lender (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a
34 Lender, shall be conclusive absent manifest error.
35

36 (ii) Indemnification by the Lenders. Each Lender shall severally
37 indemnify the Agent, within ten (10) days after demand therefor, for (i) any Indemnified
38 Taxes attributable to such Lender (but only to the extent that the Borrower has not
39 already indemnified the Agent for such Indemnified Taxes and without limiting the
40 obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure
41 to comply with the provisions of *Section 10.06* relating to the maintenance of a
42 Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each
43 case, that are payable or paid by the Agent in connection with any Loan Document, and
44 any reasonable expenses arising therefrom or with respect thereto, whether or not such
45 Taxes were correctly or legally imposed or asserted by the relevant Governmental
46 Authority. A certificate as to the amount of such payment or liability delivered to any
47 Lender by the Agent shall be conclusive absent manifest error. Each Lender hereby

1 authorizes the Agent to set off and apply any and all amounts at any time owing to such
2 Lender under any Loan Document or otherwise payable by the Agent to such Lender
3 from any other source against any amount due to the Agent under this *Section 3.09(c)(ii)*.
4

5 (d) Evidence of Payments. Within thirty (30) days after any payment of
6 Taxes by the Borrower to a Governmental Authority pursuant to this *Section 3.09*, the Borrower
7 shall deliver to the Agent the original or a certified copy of a receipt issued by such
8 Governmental Authority evidencing such payment, a copy of the return reporting such payment
9 or other evidence of such payment reasonably satisfactory to the Agent.
10

11 (e) Status of Lenders.
12

13 (i) Any Lender that is entitled to an exemption from or reduction of
14 withholding Tax with respect to payments made under any Loan Document, shall deliver
15 to the Borrower and the Agent, at the time or times reasonably requested by the Borrower
16 or the Agent, such properly completed and executed documentation reasonably requested
17 by the Borrower or the Agent as will permit such payments to be made without
18 withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably
19 requested by the Borrower or the Agent shall deliver such other documentation
20 prescribed by applicable law or reasonably requested by the Borrower or the Agent as
21 will enable the Borrower or the Agent to determine whether or not such Lender is subject
22 to backup withholding or information reporting requirements. Notwithstanding anything
23 to the contrary in the preceding two sentences, the completion, execution and submission
24 of such documentation (other than such documentation set forth in *Section 3.09(e)(ii)(1)*,
25 *(ii)(2)* and *(ii)(4)* below) shall not be required if in such Lender's reasonable judgment
26 such completion, execution or submission would subject such Lender to any material
27 unreimbursed cost or expense or would materially prejudice the legal or commercial
28 position of such Lender.
29

30 (ii) Without limiting the generality of the foregoing,
31

32 (1) any Lender that is a U.S. Person shall deliver to the
33 Borrower and the Agent on or prior to the date on which
34 such Lender becomes a Lender under this Agreement (and
35 from time to time thereafter upon the reasonable request of
36 the Borrower or the Agent), executed originals of IRS Form
37 W-9 certifying that such Lender is exempt from U.S.
38 federal backup withholding tax;
39

40 (2) any Foreign Lender shall, to the extent it is legally entitled
41 to do so, deliver to the Borrower and the Agent (in such
42 number of copies as shall be requested by the Recipient on
43 or prior to the date on which such Foreign Lender becomes
44 a Lender under this Agreement (and from time to time
45 thereafter upon the reasonable request of the Borrower or
46 the Agent), whichever of the following is applicable:

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- (A) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States of America is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;
- (B) executed originals of IRS Form W-8ECI;
- (C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed originals of IRS Form W-8BEN-E (or W-8BEN, as applicable); or
- (D) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-2 or Exhibit G-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if such Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner;

1 (3) any Foreign Lender, shall, to the extent it is legally entitled
2 to do so, deliver to the Borrower and the Agent (in such
3 number of copies as shall be requested by the recipient) on
4 or prior to the date on which such Foreign Lender becomes
5 a Lender under this Agreement (and from time to time
6 thereafter upon the reasonable request of the Borrower or
7 the Agent), executed originals of any other form prescribed
8 by applicable law as a basis for claiming exemption from or
9 a reduction in U.S. federal withholding Tax, duly
10 completed, together with such supplementary
11 documentation as may be prescribed by applicable law to
12 permit the Borrower or the Agent to determine the
13 withholding or deduction required to be made; and
14

15 (4) if a payment made to a Lender under any Loan Document
16 would be subject to U.S. federal withholding Tax imposed
17 by FATCA if such Lender were to fail to comply with the
18 applicable reporting requirements of FATCA (including
19 those contained in Section 1471(b) or 1472(b) of the Code,
20 as applicable), such Lender shall deliver to the Borrower
21 and the Agent at the time or times prescribed by law and at
22 such time or times reasonably requested by the Borrower or
23 the Agent such documentation prescribed by applicable law
24 (including as prescribed by Section 1471(b)(3)(C)(i) of the
25 Code) and such additional documentation reasonably
26 requested by the Borrower or the Agent as may be
27 necessary for the Borrower and the Agent to comply with
28 their obligations under FATCA and to determine that such
29 Lender has complied with such Lender's obligations under
30 FATCA or to determine the amount to deduct and withhold
31 from such payment. Solely for purposes of this clause (4),
32 "FATCA" shall include any amendments to FATCA made
33 after the Effective Date.
34

35 Each Lender agrees that if any form or certification it previously delivered
36 expires or becomes obsolete or inaccurate in any respect, it shall update
37 such form or certification or promptly notify the Borrower and the Agent
38 in writing of its legal inability to do so.
39

40 (f) Treatment of Certain Refunds. If any Party determines, in its sole
41 discretion exercised in good faith, that it has received a refund of any Taxes as to which it has
42 been indemnified pursuant to this *Section 3.09* (including by the payment of additional amounts
43 pursuant to this *Section 3.09*), it shall pay to the indemnifying party an amount equal to such
44 refund (but only to the extent of indemnity payments made under this *Section 3.09* with respect
45 to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of
46 such indemnified party and without interest (other than any interest paid by the relevant
47 Governmental Authority with respect to such refund). Such indemnifying party, upon the

1 request of such indemnified party, shall repay to such indemnified party the amount paid over
2 pursuant to this *Section 3.09(f)* (plus any penalties, interest or other charges imposed by the
3 relevant Governmental Authority) in the event that such indemnified party is required to repay
4 such refund to such Governmental Authority. Notwithstanding anything to the contrary in this
5 *Section 3.09(f)*, in no event will the indemnified party be required to pay any amount to an
6 indemnifying party pursuant to this *Section 3.09(f)* the payment of which would place the
7 indemnified party in a less favorable net after-Tax position than the indemnified party would
8 have been in if the indemnification payments or additional amounts giving rise to such refund
9 had never been paid. This *Section 3.09(f)* shall not be construed to require any indemnified
10 party to make available its Tax returns (or any other information relating to its Taxes that it
11 deems confidential) to the indemnifying party or any other Person.
12

13 Section 3.10. Defaulting Lenders; Cure.
14

15 (a) Defaulting Lender Waterfall. Any payment of principal, interest, fees or
16 other amounts received by the Agent for the account of any Defaulting Lender (whether
17 voluntary or mandatory, at maturity, pursuant to *Article 7* or otherwise), or received by the
18 Agent from a Defaulting Lender by exercise of right of set-off, shall be applied at such time or
19 times as may be determined by the Agent as follows: *first*, to the payment of any amounts
20 owing by such Defaulting Lender to the Agent hereunder; *second*, as the Borrower may request
21 (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting
22 Lender has failed to fund its portion thereof as required by this Agreement, as determined by the
23 Agent; *third*, if so agreed by the Agent and the Borrower, to be held in a deposit account and
24 released pro rata in order to satisfy such Defaulting Lender's potential future funding
25 obligations with respect to Loans under this Agreement; *fourth*, to the payment of any amounts
26 owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained
27 by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of
28 its obligations under this Agreement; *fifth*, so long as no Default exists, to the payment of any
29 amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction
30 obtained by the Borrower against such Defaulting Lender as a result of such Defaulting
31 Lender's breach of its obligations under this Agreement; and *sixth*, to such Defaulting Lender or
32 as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a
33 payment of the principal amount of any Loans in respect of which such Defaulting Lender has
34 not fully funded its appropriate share, and (y) such Loans were made at a time when the
35 conditions set forth in *Section 6.01*, were satisfied or waived, such payment shall be applied
36 solely to pay the Loans of all Non-Defaulting Lenders on a pro rata basis prior to being applied
37 to the payment of any Loans of such Defaulting Lender. Any payments, prepayments or other
38 amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed
39 by a Defaulting Lender or to post cash collateral pursuant to this *Section 3.10(a)* shall be
40 deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents
41 hereto (and the amounts thus applied or held shall discharge any corresponding obligations of
42 the Borrower relating thereto).
43

44 (b) Defaulting Lender Cure. If the Borrower and the Agent agree in writing
45 that a Lender is no longer a Defaulting Lender, the Agent will so notify the Parties, whereupon
46 as of the effective date specified in such Notice and subject to any conditions set forth therein
47 (which may include arrangements with respect to any cash collateral or other acceptable credit
48

1 support), that Lender will, to the extent applicable, purchase at par that portion of outstanding
2 Loans of the other Lenders or take such other actions as the Agent may determine to be
3 necessary to cause the Loans to be held pro rata by the Lenders, whereupon such Lender will
4 cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with
5 respect to fees accrued or payments made by or on behalf of the Borrower while that Lender
6 was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly
7 agreed by the affected Parties, no change hereunder from Defaulting Lender to Lender will
8 constitute a waiver or release of any claim of any Party arising from that Lender having been a
9 Defaulting Lender.

10
11 (c) Effect on Other Obligations. No commitment of any Lender shall
12 be increased or otherwise affected, and except as otherwise expressly provided in this *Section*
13 *3.10*, performance by the Borrower of its obligations hereunder shall not be excused or otherwise
14 modified as a result of the operation of this *Section 3.10*. The rights and remedies against a
15 Defaulting Lender under this *Section 3.10* are in addition to any other rights and remedies which
16 the Borrower, the Agent or any Lender may have against such Defaulting Lender.

17
18 **ARTICLE 4 - REPRESENTATIONS AND WARRANTIES.**

19
20 The Borrower represents and warrants to the Lenders and the Agent as follows:

21 Section 4.01. Corporate Authority.

22 (a) Incorporation; Good Standing. The Borrower (i) is a corporation duly
23 organized, validly existing and in good standing under the laws of the State of Florida, (ii) has all
24 requisite corporate power to own its property and conduct its business as now conducted, and
25 (iii) is in good standing as a foreign corporation and is duly authorized to do business in each
26 jurisdiction where such qualification is necessary except where a failure to be so qualified would
27 not have a material adverse effect on the business, assets or financial condition of the Borrower
28 and its Subsidiaries, taken as a whole.

29
30 (b) Authorization. The execution, delivery and performance of this
31 Agreement, the other Loan Documents to which the Borrower is or is to become a party and the
32 transactions contemplated hereby and thereby (i) are within the corporate authority of the
33 Borrower, (ii) have been duly authorized by all necessary corporate proceedings, (iii) do not
34 conflict with or result in any breach or contravention of any provision of any law, statute, rule or
35 regulation to which the Borrower is subject or any material judgment, order, writ, injunction,
36 license or permit applicable to the Borrower, except where any such conflict, breach, or
37 contravention would not have a material adverse effect on the business, properties or financial
38 condition of the Borrower and its Subsidiaries, taken as a whole, a material adverse effect on the
39 ability of the Borrower to perform its obligations under the Loan Documents or a material
40 adverse effect on the validity or enforceability of the Loan Documents, it being understood that
41 the aggregate principal amount of the Loans and all other applicable indebtedness, equity
42 securities and all other liabilities and obligations as guarantor, endorser or surety of the Borrower
43 at any one time outstanding will not exceed the applicable limits authorized by the FPSC
44 Financing Order, and (iv) do not conflict with any provision of the corporate charter, as
45 amended, or bylaws, as amended, of, or any material agreement or other material instrument
46

1 binding upon, the Borrower it being understood that the aggregate principal amount of the Loans
2 and all other applicable indebtedness, equity securities and all other liabilities and obligations as
3 guarantor, endorser or surety of the Borrower at any one time outstanding will not exceed the
4 applicable limits authorized by the FPSC Financing Order. This Agreement and each other Loan
5 Document to which the Borrower is a party have been duly executed and delivered by the
6 Borrower.
7

8 (c) Enforceability. The execution and delivery by the Borrower of this
9 Agreement and the other Loan Documents will result in valid and legally binding obligations of
10 the Borrower, enforceable against it in accordance with the respective terms and provisions
11 hereof and thereof, except as enforceability is limited by bankruptcy, insolvency, reorganization,
12 receivership, moratorium or other laws affecting creditors' rights and remedies generally and
13 general principles of equity.
14

15 Section 4.02. Governmental Approvals. The execution and delivery by the Borrower of
16 this Agreement and the other Loan Documents, and the performance by it of its obligations
17 thereunder, do not require the approval or consent of, or filing with, any Governmental
18 Authority, except those which have been obtained on or prior to the date hereof, it being
19 understood that the aggregate principal amount of the Loans and all other applicable
20 indebtedness, equity securities and all other liabilities and obligations as guarantor, endorser or
21 surety of the Borrower at any one time outstanding will not exceed the applicable limits
22 authorized by the FPSC Financing Order.
23

24 Section 4.03. Title to Properties. The Borrower or one or more of its consolidated
25 subsidiaries owns all of the assets reflected as the Borrower's assets in the consolidated balance
26 sheet of the Borrower as at December 31, 2018 referred to in *Section 4.04* or acquired since that
27 date (except property and assets sold or otherwise disposed of in the ordinary course of business
28 or as otherwise permitted pursuant to the provisions of this Agreement since that date and except
29 for such assets owned from time to time by any entity whose assets are consolidated on the
30 balance sheet of the Borrower and its Subsidiaries solely as a result of the operation of FASB
31 ASC 810), subject to no Liens, except for such matters set forth in *Schedule 4.03* or otherwise
32 permitted pursuant to the provisions of this Agreement and Liens upon the assets of any
33 Subsidiary of the Borrower.
34

35 Section 4.04. Financial Statements. The consolidated balance sheet of the Borrower and
36 its Subsidiaries for the period ending December 31, 2018, and related consolidated income
37 statements of the Borrower and its Subsidiaries for the fiscal period then ended, and have been
38 certified by the Borrower's independent public accountants. The financial statements of the
39 Borrower have been prepared in accordance with generally accepted accounting principles and
40 present fairly the consolidated financial position and results of operations of the Borrower and its
41 Subsidiaries, taken as a whole, at the respective dates and for the respective periods to which
42 they apply. As of the Effective Date, there has been no material adverse change in the business
43 or financial condition of the Borrower and its Subsidiaries, taken as a whole, since December 31,
44 2018, except as set forth in *Schedule 4.04*.
45

46 Section 4.05. Franchises, Patents, Copyrights, Etc. The Borrower possesses all material
47 franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in

1 respect of the foregoing, adequate for the conduct of its business substantially as now conducted,
2 and, except where in any such case any such conflict would not have a material adverse effect on
3 the business, properties or financial condition of the Borrower and its Subsidiaries, taken as a
4 whole, without known conflict with any rights of others.
5

6 Section 4.06. Litigation. Except as described in Schedule 4.06, as of the Effective Date,
7 there is no litigation or other legal proceedings pending, or, to the knowledge of the Borrower,
8 threatened against the Borrower or any of its Subsidiaries that is reasonably likely to be
9 determined adversely to the Borrower or any of its Subsidiaries, and if determined adversely to
10 the Borrower or any of its Subsidiaries, would reasonably be expected to have a material adverse
11 effect on the business, properties or financial condition of the Borrower and its Subsidiaries,
12 taken as a whole, or to materially impair the right of the Borrower to carry on its business
13 substantially as now conducted by it. There is no litigation or other legal proceedings pending,
14 or, to the knowledge of the Borrower, threatened against the Borrower or any of its Subsidiaries
15 that if determined adversely to the Borrower or any of its Subsidiaries could reasonably be
16 expected to question the validity of this Agreement or any of the other Loan Documents or any
17 actions taken or to be taken pursuant hereto or thereto.
18

19 Section 4.07. Compliance With Other Instruments, Laws, Etc. The Borrower is not in
20 violation of any provision of its charter documents, bylaws, or any agreement or instrument to
21 which it is subject or by which it or any of its properties is bound or any material decree, order,
22 judgment, statute, license, rule or regulation, in any of the foregoing cases in a manner that
23 would materially and adversely affect the financial condition, properties or business of the
24 Borrower and its Subsidiaries, taken as a whole.
25

26 Section 4.08. Tax Status. The Borrower has (a) prepared and, giving effect to all proper
27 extensions, timely filed all federal and state income tax returns and, to the best knowledge of the
28 Borrower, all other material tax returns, reports and declarations required by any applicable
29 jurisdiction to which the Borrower is legally subject, which, giving effect to all proper
30 extensions, were required to be filed prior to the Effective Date, (b) paid all taxes and other
31 governmental assessments and charges shown or determined to be due on such returns, reports
32 and declarations, except those being contested in good faith and by appropriate proceedings, and
33 (c) to the extent deemed necessary or appropriate by the Borrower, set aside on its books
34 provisions reasonably adequate for the payment of all known taxes for periods subsequent to the
35 periods to which such returns, reports or declarations apply.
36

37 Section 4.09. No Default. No Default has occurred and is continuing.
38

39 Section 4.10. Investment Company Act. The Borrower is not an “investment company”,
40 or an “affiliated company” or a “principal underwriter” of an “investment company”, as such
41 terms are defined in the Investment Company Act of 1940.
42

43 Section 4.11. Employee Benefit Plans.
44

45 (a) In General. Each Employee Benefit Plan sponsored by the Borrower or its
46 Subsidiaries has been maintained and operated in compliance in all material respects with the

1 provisions of ERISA and, to the extent applicable, the Code, including but not limited to the
2 provisions thereunder respecting prohibited transactions.
3

4 (b) Terminability of Welfare Plans. Under each Employee Benefit Plan
5 sponsored by the Borrower or its Subsidiaries which is an employee welfare benefit plan within
6 the meaning of §3(1) or §3(2)(B) of ERISA, no benefits are due unless the event giving rise to
7 the benefit entitlement occurs prior to plan termination (except as required by Title I, Part 6 of
8 ERISA). The Borrower and its Subsidiaries may terminate their respective participation in each
9 such plan at any time (other than a plan that provides benefits pursuant to a collective bargaining
10 agreement) in the discretion of the Borrower or its Subsidiaries without liability to any Person.
11

12 (c) Guaranteed Pension Plans. As of the Effective Date, each contribution
13 required to be made to a Guaranteed Pension Plan by the Borrower or an ERISA Affiliate,
14 whether required to satisfy the minimum funding requirements described in §302 or §303 of
15 ERISA, the notice or lien provisions of §303(k) of ERISA, or otherwise, has been timely made.
16 As of the Effective Date, no waiver from the minimum funding standards or extension of
17 amortization periods has been received with respect to any Guaranteed Pension Plan. As of the
18 Effective Date, no liability to the PBGC (other than required insurance premiums, all of which
19 have been paid) has been incurred by the Borrower or any ERISA Affiliate with respect to any
20 Guaranteed Pension Plan and there has not been any ERISA Reportable Event which presents a
21 material risk of termination of any Guaranteed Pension Plan by the PBGC. Based on the latest
22 valuation of each Guaranteed Pension Plan (which in each case occurred within twelve months
23 of the date of this representation), and on the actuarial methods and assumptions employed for
24 that valuation, the aggregate benefit liabilities of all such Guaranteed Pension Plans within the
25 meaning of §4001 of ERISA did not exceed the aggregate value of the assets of all such
26 Guaranteed Pension Plans by more than \$500,000.
27

28 (d) Multiemployer Plans. Neither the Borrower nor any ERISA Affiliate has
29 incurred any material unpaid liability (including secondary liability) to any Multiemployer Plan
30 as a result of a complete or partial withdrawal from such Multiemployer Plan under §4201 of
31 ERISA or as a result of a sale of assets described in §4204 of ERISA. Neither the Borrower nor
32 any ERISA Affiliate has been notified that any Multiemployer Plan is in reorganization,
33 insolvent or “endangered” or “critical” status under and within the meaning of §4241, §4245 or
34 §305, respectively, of ERISA or that any Multiemployer Plan intends to terminate or has been
35 terminated under §4041A of ERISA.
36

37 Section 4.12. Use of Proceeds. The proceeds of the Loans shall be used for the general
38 corporate purposes of the Borrower.
39

40 Section 4.13. Compliance with Margin Stock Regulations. The Borrower is not engaged
41 principally, or as one of its important activities, in the business of extending credit for the
42 purpose of purchasing or carrying “margin stock” (within the meaning of Regulation U or
43 Regulation X of the Federal Reserve Board), and no part of the proceeds of the Loans will be
44 used to purchase or carry any “margin stock,” to extend credit to others for the purpose of
45 purchasing or carrying any “margin stock” or for any other purpose which might constitute this
46 transaction a “purpose credit” within the meaning of Regulation U or Regulation X. In addition,

1 not more than twenty-five percent (25%) of the value (as determined by any reasonable method)
2 of the assets of the Borrower consists of margin stock.
3

4 Section 4.14. USA PATRIOT ACT, OFAC and Other Regulations.
5

6 (a) Neither the Borrower, any of its Subsidiaries or, to the knowledge of the
7 Borrower, any of the affiliates or respective officers, directors, brokers or agents of the
8 Borrower, such Subsidiary or affiliate (i) has violated any applicable anti-corruption laws,
9 Sanctions or Anti-Terrorism Laws or (ii) has engaged in any transaction, investment, undertaking
10 or activity that conceals the identity, source or destination of the proceeds from any category of
11 prohibited offenses designated by the Organization for Economic Co-operation and
12 Development's Financial Action Task Force on Money Laundering.
13

14 (b) Neither the Borrower, any of its Subsidiaries or, to the knowledge of the
15 Borrower, any of the affiliates or respective officers, directors, employees, brokers or agents of
16 the Borrower, such Subsidiary or affiliate is a Person that is, or is owned or controlled by
17 Persons that are: (i) the subject of any Sanctions, or (ii) located, organized or resident in a
18 country, region or territory that is, or whose government is, the subject of Sanctions.
19

20 (c) Neither the Borrower, any of its Subsidiaries or, to the knowledge of the
21 Borrower, any of the affiliates or respective officers, directors, brokers or agents of the
22 Borrower, such Subsidiary or affiliate acting or benefiting in any capacity in connection with the
23 Loans (i) conducts any business or engages in making or receiving any contribution of goods,
24 services or money to or for the benefit of any Person, or in any country or territory, that is the
25 subject of any Sanctions, (ii) deals in, or otherwise engages in any transaction related to, any
26 property or interests in property blocked pursuant to any Sanctions or Anti-Terrorism Law or (iii)
27 engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of
28 evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Sanctions or
29 Anti-Terrorism Law.
30

31 (d) The Borrower has and, to the knowledge of the Borrower, its Subsidiaries
32 have, conducted their business in compliance with applicable Sanctions, anti-corruption laws, the
33 USA PATRIOT Act, Anti-Terrorism Laws and money laundering laws and have instituted and
34 maintained policies and procedures designed to promote and achieve compliance with such laws.
35

36 **ARTICLE 5 - COVENANTS OF BORROWER**
37

38 The Borrower covenants and agrees that, so long as any portion of the Loans, any Note as
39 may be issued hereunder:
40

41 Section 5.01. Punctual Payment. The Borrower will duly and punctually pay or cause to
42 be paid (a) the principal and interest on the Loans, and (b) the fees and all other amounts
43 provided for in this Agreement and the other Loan Documents.
44

45 Section 5.02. Maintenance of Office. The Borrower will maintain its chief executive
46 office at 700 Universe Boulevard, Juno Beach, Florida 33408-8801, or at such other place in the
47 United States of America as the Borrower shall designate by Notice to the Agent, in accordance
48 with *Section 10.02.*

1 Section 5.03. Records and Accounts. The Borrower will, (a) keep true and accurate
2 records and books of account in which full, true and correct entries will be made in accordance
3 with generally accepted accounting principles and (b) to the extent deemed necessary or
4 appropriate by the Borrower, maintain adequate accounts and reserves for all taxes (including
5 income taxes), depreciation, depletion, obsolescence and amortization of its properties,
6 contingencies, and other reserves.
7

8 Section 5.04. Financial Statements, Certificates and Information. The Borrower will
9 deliver to the Agent for distribution to the Lenders, which, for the purposes of this *Section 5.04*,
10 may be made available electronically by the Borrower as provided below:
11

12 (a) as soon as practicable, but in any event not later than one hundred twenty
13 (120) days after the end of each fiscal year of the Borrower, the consolidated balance sheet of the
14 Borrower and its subsidiaries as at the end of such year, and the related consolidated statements
15 of income and consolidated statements of cash flows for such year, each setting forth in
16 comparative form the figures for the previous fiscal year or year-end, as applicable, and all such
17 consolidated statements to be prepared in accordance with generally accepted accounting
18 principles, and certified by Deloitte & Touche LLP or by other independent public accountants
19 reasonably satisfactory to the Agent. The Agent and each of the Lenders hereby agree that the
20 foregoing requirement shall be satisfied by delivery (or deemed delivery in accordance with the
21 final paragraph of this *Section 5.04*) to each of the Lenders of the Borrower's annual report on
22 Form 10-K for the period for which such financial statements are to be delivered, together with a
23 written statement from the principal financial or accounting officer, Treasurer or Assistant
24 Treasurer of the Borrower to the effect that such officer has read a copy of this Agreement, and
25 that, in making the examination necessary to said certification, he or she has obtained no
26 knowledge of any Default, or, if such officer shall have obtained knowledge of any then existing
27 Default, he or she shall disclose in such statement any such Default; provided that such officer
28 shall not be liable to the Agent or the Lenders for failure to obtain knowledge of any Default;
29

30 (b) as soon as practicable, but in any event not later than sixty (60) days after
31 the end of each of the first three (3) fiscal quarters of the Borrower, copies of the unaudited
32 consolidated balance sheet of the Borrower and its subsidiaries as at the end of such quarter, and
33 the related consolidated statements of income and consolidated statements of cash flows for the
34 portion of the fiscal year to which they apply, all prepared in accordance with generally accepted
35 accounting principles, together with a certification by the principal financial or accounting
36 officer, Treasurer or Assistant Treasurer of the Borrower that the information contained in such
37 financial statements fairly presents the financial position of the Borrower and its Subsidiaries as
38 of the end of such quarter (subject to year-end adjustments). The Agent and each of the Lenders
39 hereby agree that the foregoing requirement shall be satisfied by delivery (or deemed delivery in
40 accordance with the final paragraph of this *Section 5.04*) to each of the Lenders of the
41 Borrower's quarterly report on Form 10-Q for the period for which such financial statements are
42 being delivered, together with a written statement from the principal financial or accounting
43 officer, Treasurer or Assistant Treasurer of the Borrower to the effect that such officer has read a
44 copy of this Agreement, and that, in making the examination necessary to said certification, he or
45 she has obtained no knowledge of any Default, or, if such officer has obtained knowledge of any
46 then existing Default, he or she shall disclose in such statement any such Default; provided that

1 such officer shall not be liable to the Agent or the Lenders for failure to obtain knowledge of any
2 Default;

3
4 (c) contemporaneously with the filing or mailing thereof, copies of all
5 material of a financial nature filed by the Borrower with the Securities and Exchange
6 Commission;

7
8 (d) promptly after the commencement thereof, Notice of all actions and
9 proceedings before any court, governmental agency or arbitrator of the type described in *Section*
10 *4.06* to which the Borrower is a party or its properties are subject; and

11
12 (e) from time to time such other financial data and information as the Agent
13 or any Lender may reasonably request, including, without limitation, information or
14 certifications as may be required under the Beneficial Ownership Regulation, if applicable.

15
16 Reports or financial information required to be delivered pursuant to this *Section 5.04* shall, to
17 the extent any such financial statements, reports, proxy statements or other materials are included
18 in materials otherwise filed with the Securities and Exchange Commission, be deemed to be
19 delivered hereunder on the date of such filing, and may be delivered electronically and if so,
20 shall be deemed to have been delivered on the date on which the Borrower gives notice to the
21 Lender that the Borrower has posted such report or financial information or provides a link
22 thereto on the Borrower's website on the Internet or on Intralinks or a substantially similar
23 transmission system to which access is available to the Lender.

24
25 Section 5.05. Default Notification. The Borrower will promptly provide Notice to the
26 Agent regarding the occurrence of any Default of which the principal financial or accounting
27 officer, Treasurer or Assistant Treasurer of the Borrower has actual knowledge or notice.

28
29 Section 5.06. Corporate Existence: Maintenance of Properties. The Borrower will do or
30 cause to be done all things necessary to preserve and keep in full force and effect its corporate
31 existence (except as otherwise expressly permitted by the first sentence of *Section 5.11*), and will
32 do or cause to be done all things commercially reasonable to preserve and keep in full force and
33 effect its franchises; and the Borrower will, (a) cause all of its properties used and useful in the
34 conduct of its business to be maintained and kept in good condition, repair and working order
35 and supplied with all necessary equipment, and (b) cause to be made all necessary repairs,
36 renewals, replacements, betterments and improvements thereof, all as in the judgment of the
37 Borrower may be necessary, so that the business carried on in connection therewith may be
38 properly and advantageously conducted at all times; *provided that* nothing in this *Section 5.06*
39 shall prevent the Borrower or any of its Subsidiaries from discontinuing the operation and
40 maintenance of any of its properties if such discontinuance is, in the sole judgment of the
41 Borrower or its Subsidiary, as the case may be, desirable in the conduct of its business and does
42 not in the aggregate materially adversely affect the business, properties or financial condition of
43 the Borrower and its Subsidiaries, taken as a whole; *provided further that* nothing in this *Section*
44 *5.6* shall affect or impair in any manner the ability of the Borrower or any of its Subsidiaries to
45 sell or dispose of all or any portion of its property and assets (including, without limitation, its
46 shares in any Subsidiary or all or any portion of the property or assets of any Subsidiary); and
47 *provided finally that*, in the event of any loss or damage to its property or assets, the Borrower

1 and its Subsidiaries shall only be obligated to repair, replace or restore any such property or
2 assets if the Bonower or the relevant Subsidiary has determined that such repair, replacement or
3 restoration is necessary or appropriate and any such repair, replacement and/or restoration may
4 be effectuated by the Bonower or such Subsidiary in such time period and in the manner it
5 deems appropriate.
6

7 Section 5.07. Taxes. The Bonower will duly pay and discharge, or cause to be paid and
8 discharged, before the same shall become overdue, all material taxes, assessments and other
9 governmental charges (other than taxes, assessments and other governmental charges that in the
10 aggregate are not material to the business or assets of the Bonower) imposed upon it and its real
11 properties, sales and activities, or any part thereof, or upon the income or profits therefrom, as
12 well as all claims for labor, materials, or supplies that if unpaid might by law become a Lien or
13 charge upon any of its property; provided that any such tax, assessment, charge, levy or claim
14 need not be paid if the validity or amount thereof shall currently be contested in good faith by
15 appropriate proceedings and, to the extent that the Bonower deems necessary, the Bonower shall
16 have set aside on its books adequate reserves with respect thereto; and provided further that the
17 Bonower will pay all such taxes, assessments, charges, levies or claims forthwith upon the
18 commencement of proceedings to foreclose any Lien that may have attached as security therefor.
19

20 Section 5.08. Visits by Lenders. The Bonower shall permit the Lenders, through the
21 Agent or any of the Lenders' other designated representatives, to visit the properties of the
22 Bonower and to discuss the affairs, finances and accounts of the Bonower with, and to be
23 advised as to the same by, its officers, upon reasonable Notice and all at such reasonable times
24 and intervals as the Agent or any Lender may reasonably request.
25

26 Section 5.09. Compliance with Laws, Contracts, Licenses, and Permits. The Bonower
27 will comply with (a) the laws and regulations applicable to the Bonower (including, without
28 limitation, ERISA) wherever its business is conducted, (b) the provisions of its charter
29 documents and by-laws, (c) all agreements and instruments by which it or any of its properties
30 may be bound, and (d) all decrees, orders, and judgments applicable to the Bonower, except
31 where in any such case the failure to comply with any of the foregoing would not materially
32 adversely affect the business, property or financial condition of the Bonower and its
33 Subsidiaries, taken as a whole. If at any time while any portion of the Loans or any other
34 amount hereunder or any commitment is outstanding, any authorization, consent, approval,
35 permit or license from any officer, agency or instrumentality of any Governmental Authority
36 shall become necessary or required in order that the Bonower may fulfill any of its obligations
37 hereunder or under any other Loan Document, the Bonower will promptly take or cause to be
38 taken all reasonable steps within the power of the Bonower to obtain such authorization,
39 consent, approval, permit or license and furnish the Agent with evidence thereof.
40

41 Section 5.10. Use of Proceeds. The Bonower will use the proceeds of the Loans solely
42 for the purposes described in Section 4.12.
43

44 Section 5.11. Prohibition of Fundamental Changes. The Bonower will not consummate
45 any transaction of merger or consolidation or amalgamation, or liquidation or dissolution;





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Section 5.12. [Reserved.]

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Section 5.13. Indebtedness. The Bonower will insure that all obligations of the Bonower under this Agreement and the other Loan Documents rank and will rank at least pari passu in respect of priority of payment by the Bonower and priority of lien, charge or other security in respect of assets of the Bonower with all other senior unsecured and unsubordinated loans, debts, guarantees or other obligations for money bonowed of the Bonower without any preference one above the other by reason of priority of date incuned, cunency of payment or othelwise, except as permitted pursuant to the provisions of *Section 5.14*.

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Section 5.14. Liens. The Bonower will not create any Lien upon or with respect to any of its propeties, or assign any right to receive income, in each case to secure or provide for the payment of any debt of any Person, other than:

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(i) purchase money liens or purchase money security interests upon or in any propety acquired by the Bonower in the ordinary course of business to secure the purchase price or constrction cost of such propety or to secure indebtedness incuned solely for the pmpose of financing the acquisition of such propety or construction of improvements on such propety;

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(ii) Liens existing on propety acquired by the Bonower at the time of its acquisition, provided that such Liens were not created in contemplation of such acquisition and do not extend to any assets other than the propety so acquired;

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(iii) Liens securing Nomecourse Indebtedness created for the pmpose of financing the acquisition, improvement or construction of the propety subject to such Liens;

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(iv) the replacement, extension or renewal of any Lien permitted by clauses (i) through (iii) of this *Section 5.14* upon or in the same propety theretofore

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1 subject thereto or the replacement, extension or renewal (without increase in the amount
2 or change in the direct or indirect obligor) of the indebtedness secured thereby;

3 (v) Liens upon or with respect to margin stock;

4
5 (vi) (a) deposits or pledges to secure payment of workers'
6 compensation, unemployment insurance, old age pensions or other social security; (b)
7 deposits or pledges to secure performance of bids, tenders, contracts (other than contracts
8 for the payment of money) or leases, public or statutory obligations, surety or appeal
9 bonds or other deposits or pledges for purposes of like general nature in the ordinary
10 course of business; (c) Liens for property taxes not delinquent and Liens for taxes which
11 in good faith are being contested or litigated and, to the extent that the BoITower deems
12 necessary, the BoITower shall have set aside on its books adequate reserves with respect
13 thereto; (d) mechanics', carriers', workmen's, repairmen's or other like Liens arising in
14 the ordinary course of business securing obligations which are not overdue for a period of
15 sixty (60) days or more or which are in good faith being contested or litigated and, to the
16 extent that the BoITower deems necessary, the BoITower shall have set aside on its books
17 adequate reserves with respect thereto; and (e) other matters described in Schedule 4.03;

18
19 (vii) any Liens securing any pollution control revenue bonds, solid
20 waste disposal revenue bonds, industrial development revenue bonds or other taxable or
21 tax-exempt bonds or similar obligations issued by or on behalf of the BoITower from time
22 to time, and any Liens given to secure any refinancing or refunding of any such
23 obligations; and

24
25 (viii) judgment Liens that do not constitute an Event of Default;

26
27 (ix) Liens arising by virtue of any statutory or common law provision
28 relating to bankers' Liens, rights of setoff or similar rights as to deposit accounts or other
29 funds maintained with a creditor depository institution; and

30
31 (x) any other Liens or security interests (other than Liens or security
32 interests described in clauses (i) through (ix) of this *Section 5.14*), if the aggregate
33 principal amount of the indebtedness secured by all such Liens and security interests
34 (without duplication) does not exceed in the aggregate \$50,000,000 at any one time
35 outstanding;



36
37
38 Section 5.15. Maintenance of Insurance. The BoITower shall maintain insurance with
39 responsible and reputable insurance companies or associations in such amounts and covering
40 such risks as is usually carried by companies engaged in similar businesses and owning similar
41 properties in the same general areas in which the BoITower operates; provided, however, that the
42 BoITower may self-insure (which may include the establishment of reserves, allocation of
43 resources, establishment of credit facilities and other similar arrangements) to the same extent as

1 other companies engaged in similar businesses and owning similar properties in the same general
2 areas in which the Borrower operates and to the extent consistent with prudent business practice.
3

4 Section 5.16. Employee Benefit Plans. The Borrower will not:
5

6 (a) engage in any non-exempt “prohibited transaction” within the meaning of
7 §406 of ERISA or §4975 of the Code which could result in a material liability for the Borrower;
8 or
9

10 (b) permit any Guaranteed Pension Plan sponsored by the Borrower or its
11 ERISA Affiliates to fail to meet the “minimum funding standards” described in §302 and §303
12 of ERISA, whether or not such deficiency is or may be waived; or
13

14 (c) fail to contribute to any Guaranteed Pension Plan sponsored by the
15 Borrower or its ERISA Affiliates to an extent which, or terminate any Guaranteed Pension Plan
16 sponsored by the Borrower or its ERISA Affiliates in a manner which, could result in the
17 imposition of a lien or encumbrance on the assets of the Borrower or any of its Subsidiaries
18 pursuant to §303(k) or §4068 of ERISA; or
19

20 (d) permit or take any action which would result in the aggregate benefit
21 liabilities (within the meaning of §4001(a)(16) of ERISA) of Guaranteed Pension Plans
22 sponsored by the Borrower or its ERISA Affiliates exceeding the value of the aggregate assets of
23 such plans by more than the amount set forth in *Section 4.11(c)*. For purposes of this covenant,
24 poor investment performance by any trustee or investment management of a Guaranteed Pension
25 Plan shall not be considered as a breach of this covenant.
26

27 Section 5.17. Compliance with Anti-Corruption Laws and Anti-Terrorism Regulations.
28 The Borrower shall not:
29

30 (a) Violate any applicable anti-corruption laws, Sanctions or any Anti-
31 Terrorism Laws or engage in any transaction, investment, undertaking or activity that conceals
32 the identity, source or destination of the proceeds from any category of prohibited offenses
33 designated by the Organization for Economic Co-operation and Development’s Financial
34 Action Task Force on Money Laundering.
35

36 (b) Use, directly or indirectly, the proceeds of the Loans, or lend, contribute
37 or otherwise make available such proceeds to any subsidiary, joint venture partner or other
38 Person, (x) in violation of applicable anti-corruption laws, the USA PATRIOT Act, anti-
39 terrorism laws or money laundering laws, (y) to fund any activities or business of or with any
40 Person, or in any country, region or territory, that, is, or whose government is, the subject of
41 Sanctions at the time of such funding, or (z) in any other manner that would result in a violation
42 of Sanctions by any Person (including any Person participating in the Loans, whether as
43 underwriter, advisor, investor, or otherwise).
44

45 (c) Deal in, or otherwise engage in any transaction related to, any property or
46 interests in property blocked pursuant to any Sanctions or Anti-Terrorism Law, or (ii) engage in
47 or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or
48 avoiding, or attempt to violate, any of the prohibitions set forth in any Anti-Terrorism Law.
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[REDACTED]

ARTICLE 6- CONDITIONS PRECEDENT.

Section 6.01. Conditions Precedent to Effectiveness. The effectiveness of this Agreement and the Initial Lender's commitment to make Loans pursuant to *Section 2.01* is subject to the following conditions precedent, each of which shall have been met or performed in the reasonable opinion of the Agent:

(a) Execution of this Agreement. This Agreement shall have been duly executed and delivered by the Parties.

(b) Corporate Action. All corporate action necessary for the valid execution, delivery and performance (i) by the Borrower of this Agreement and each other Loan Document to which it is a party shall have been duly and effectively taken, and evidence thereof satisfactory to the Lenders shall have been provided to the Agent.

(c) Incumbency Certificate. The Agent shall have received an incumbency certificate from the Borrower, dated as of the Effective Date, signed by a duly authorized officer of the Borrower, and giving the name and bearing a specimen signature of each individual who shall be authorized: (1) to sign in the name and on behalf of the Borrower each of the Loan Documents to which it is a party, (2) in the case of the Borrower, to make requests for Loans or Conversion requests and (3) to give notices and to take other action under the Loan Documents.

(d) Borrower's Certificate. The Agent shall have received from the Borrower a certificate dated as of the Effective Date substantially in the form of *Exhibit D*.

(e) Opinion of Counsel. The Agent shall have received a favorable opinion addressed to the Lenders and the Agent, dated as of the Effective Date, substantially in the form of *Exhibit F* attached hereto, from Squire Patton Boggs (US) LLP, counsel to the Borrower (and the Borrower instructs such counsel to deliver such opinion to the Lenders and the Agent).

1 (f) No Legal Impediment. No change shall have occurred in any law or
2 regulations thereunder or interpretations thereof that in the reasonable opinion of any Lender
3 would make it illegal for such Lender to make any Loan.
4

5 (g) Governmental Regulation. Each Lender shall have received such
6 statements in substance and form reasonably satisfactory to such Lender as such Lender shall
7 require for the purpose of compliance with any applicable regulations of the Comptroller of the
8 Currency or the Board of Governors of the Federal Reserve System.
9

10 (h) Note. The Note (if same is requested by the Lender) shall have been duly
11 executed and delivered by the Borrower to [REDACTED], as the sole Lender on the Effective
12 Date.
13

14 (i) Proceedings and Documents. All proceedings in connection with the
15 transactions contemplated by this Agreement, the other Loan Documents and all other
16 documents incident thereto shall be satisfactory in substance and in form to the Lenders and to
17 counsel for the Agent and such counsel shall have received all information and such counterpart
18 originals or certified or other copies of such documents as the Agent may reasonably request,
19 including, without limitation, information or certifications as may be required under applicable
20 “know your customer” requirements and the Beneficial Ownership Regulation, if applicable.
21

22 **ARTICLE 7 - EVENTS OF DEFAULT, ACCELERATION, ETC.**

23
24 Section 7.01. Events of Default. The following events shall constitute “Events of
25 Default” for purposes of this Agreement:
26

27 (a) the Borrower shall fail to pay any principal of the Loan when the same
28 shall become due and payable, whether at the stated date of maturity or any accelerated date of
29 maturity or at any other date fixed for payment; or
30

31 (b) the Borrower shall fail to pay any interest on the Loan, any fees or other
32 sums due hereunder or under any of the other Loan Documents, for a period of [REDACTED]
33 [REDACTED] following the date when the same shall become due and payable, whether at the stated date
34 of maturity or any accelerated date of maturity or at any other date fixed for payment; or
35

36 (c) (i) the Borrower shall fail to perform any term, covenant or agreement
37 contained in *Section 5.05, Section 5.06* (but only as to corporate existence), *Section 5.10, Section*
38 *5.11* (upon the consummation of any transaction prohibited by said *Section 5.11*), *Section 5.14,*
39 *Section 5.17(b)* or *Section 5.18* or (ii) the Borrower shall fail to perform any term, covenant or
40 agreement contained herein or in any of the other Loan Documents (other than those specified
41 elsewhere in this *Section 7.01*) for [REDACTED] after Notice of such failure has been given to
42 the Borrower by the Agent or any Lender; or
43

44 (d) any representation or warranty of the Borrower in this Agreement or any
45 of the other Loan Documents or in any other document or instrument delivered pursuant to or in
46 connection with this Agreement shall prove to have been false in any material respect upon the
47 date when made or deemed to have been made by the terms of this Agreement; or

1 (e) the Borrower shall default in the payment when due of any principal of or
2 any interest on any Funded Debt aggregating [REDACTED] or more, or fail to observe or perform
3 any material term, covenant or agreement contained in any agreement by which it is bound,
4 evidencing or securing Funded Debt, in an aggregate amount of [REDACTED] or more, for such
5 period of time as would permit (assuming the giving of appropriate notice or the lapse of time if
6 required) the holder or holders thereof or of any obligations issued thereunder to accelerate the
7 maturity thereof, unless such failure shall have been cured by the Borrower or effectively waived
8 by such holder or holders; or
9

10 (f) the Borrower shall (1) voluntarily terminate operations or apply for or
11 consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or
12 liquidator of the Borrower or of all or a substantial part of the assets of the Borrower (2) admit in
13 writing its inability, or be generally unable, to pay its debts as the debts become due, (3) make a
14 general assignment for the benefit of its creditors, (4) commence a voluntary case under the
15 United States Bankruptcy Code (as now or hereafter in effect), (5) file a petition seeking to take
16 advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or
17 composition or adjustment of debts, (6) fail to controvert in a timely and appropriate manner, or
18 acquiesce in writing to, any petition filed against it in an involuntary case under the Bankruptcy
19 Code, or (7) take any corporate action for the purpose of effecting any of the foregoing; or
20

21 (g) without its application, approval or consent, a proceeding shall be
22 commenced, in any court of competent jurisdiction, seeking in respect of the Borrower: the
23 liquidation, reorganization, dissolution, winding-up, or composition or readjustment of debt, the
24 appointment of a trustee, receiver, liquidator or the like of the Borrower or of all or any
25 substantial part of the assets of the Borrower or other like relief in respect of the Borrower under
26 any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or
27 adjustment of debts unless such proceeding is contested in good faith by the Borrower; and, if
28 the proceeding is being contested in good faith by the Borrower the same shall continue
29 undismissed, or unstayed and in effect, for any period of ninety (90) consecutive days, or an
30 order for relief against the Borrower shall be entered in any involuntary case under the
31 Bankruptcy Code; or
32

33 (h) there shall remain in force, undischarged, unsatisfied and unstayed, for
34 more than thirty (30) days, whether or not consecutive, any final judgment against the Borrower
35 that, with other then undischarged, unsatisfied and unstayed, outstanding final judgments against
36 the Borrower exceeds in the aggregate [REDACTED] or
37

38 (i) if any of the Loan Documents shall be canceled, terminated, revoked or
39 rescinded by the Borrower otherwise than in accordance with the terms thereof or with the
40 express prior written agreement, consent or approval of all Lenders, or any action at law, suit or
41 in equity or other legal proceeding to cancel, revoke or rescind any of the Loan Documents shall
42 be commenced by or on behalf of the Borrower, any of its stockholders, or any court or any other
43 Governmental Authority of competent jurisdiction shall make a determination that, or issue a
44 judgment, order, decree or ruling to the effect that, any one or more of the Loan Documents is
45 illegal, invalid or unenforceable in accordance with the terms thereof; or

1 (j) (i) with respect to any Guaranteed Pension Plan, (A) an ERISA Reportable
2 Event shall have occurred; (B) an application for a minimum funding waiver shall have been
3 filed; (C) a notice of intent to terminate such plan pursuant to Section 4041(a)(2) of ERISA shall
4 have been issued; (D) a lien under Section 303(k) of ERISA shall be imposed; (E) the PBGC
5 shall have instituted proceedings to terminate such plan; (F) the PBGC shall have applied to have
6 a trustee appointed to administer such plan pursuant to Section 4042 of ERISA; or (G) any event
7 or condition that constitutes grounds for the termination of, or the appointment of a trustee to
8 administer, such plan pursuant to Section 4042 of ERISA shall have occurred or shall exist,
9 provided that with respect to the event or condition described in Section 4042(a)(4) of ERISA,
10 the PBGC shall have notified the Borrower or any ERISA Affiliate that it has made a
11 determination that such plan should be terminated on such basis; or (ii) with respect to any
12 Multiemployer Plan, the Borrower or any ERISA Affiliate shall incur liability as a result of a
13 partial or complete withdrawal from such plan or the reorganization, insolvency or termination of
14 such plan; and, in the case of each of (i) or (ii), the Majority Lenders shall have determined in
15 their reasonable discretion that such events or conditions, individually or in the aggregate,
16 reasonably could be expected likely to result in liability of the Borrower in an aggregate amount
17 exceeding [REDACTED] or

18
19 (k) there shall occur any Change of Control; or
20

21 Section 7.02. Lenders' Remedies. Upon the occurrence of any Event of Default, for so
22 long as same is continuing, the Agent shall, at the request of, or may, with the consent of, the
23 Majority Lenders, by Notice to Borrower (an "Acceleration Notice"):
24

25 (i) declare all amounts owing with respect to this Agreement and all Notes, if any, as
26 have been issued hereunder to be, and they, shall thereupon forthwith become,
27 immediately due and payable without presentment, demand, protest or other
28 notice of any kind, all of which are hereby expressly waived by the Borrower;
29

30 provided that in the event of any Event of Default specified in Section 7.01(f) or Section 7.01(g),
31 all amounts owing with respect to this Agreement and all Notes, if any, as have been issued
32 hereunder, shall become immediately due and payable automatically and without any
33 requirement of an Acceleration Notice from Agent or any Lender.
34
35

36 ARTICLE 8 - SHARING. 37

38 Section 8.01. Sharing Among Lenders. If any Lender shall obtain from the Borrower
39 any payment of any principal of or interest on any Loan owing to it or payment of any other
40 amount under this Agreement or any other Loan Document through the exercise of any right of
41 set-off, banker's lien or counterclaim or similar right or otherwise (other than from the Agent as
42 provided herein and other than amounts owing to such Lender pursuant to Sections 3.05, 3.06,
43 3.08, 3.09 or Article 10), and, as a result of such payment, such Lender shall have received a
44 greater percentage of the principal of or interest on the Loans or such other amounts then due
45 hereunder or thereunder by the Borrower to such Lender than the percentage received by any
46 other Lender, it shall promptly purchase from such other Lenders a participation in (or, if and to

1 the extent specified by such Lender, a direct interest in) the Loans or such other amounts,
2 respectively, owing to such other Lenders (or in interest due thereon, as the case may be) in such
3 amounts, and make such other adjustments from time to time as shall be equitable, to the end that
4 all the Lenders shall share the benefit of such excess payment (net of any expenses that may be
5 incurred by such Lender in obtaining or preserving such excess payment) pro rata in accordance
6 with the unpaid principal of and/or interest on the Loans or such other amounts, respectively,
7 owing to each of the Lenders; provided that, for the purpose of calculating any Lender's Pro Rata
8 Share of any payment hereunder, payments to each such Lender shall include any amounts set
9 off by the Borrower against such Lender pursuant to *Section 8.02*.

10
11 Section 8.02. Borrower's Offset Rights. To the extent permitted by law, the Borrower
12 may offset against any payments due to any Lender under this Agreement or the Notes the
13 amounts of any loss suffered by the Borrower as a result of the failure of such Lender to return
14 any monies of the Borrower on deposit with such Lender due to the insolvency of such Lender.
15 Any such offset may be made only against payments due to the insolvent Lender, when and as
16 the same become due, and no offsets may be made against any amounts due and payable to any
17 other Lender. The Borrower may not exercise any right of setoff with respect to all or any
18 portion of deposits which are insured by the Federal Deposit Insurance Corporation.
19

20 ARTICLE 9 - AGENT.

21 THE AGENT

22 Section 9.01 Appointment and Authority. Each of the Lenders hereby irrevocably
23 appoints [REDACTED] to act on its behalf as the Agent hereunder and under the other Loan
24 Documents and authorizes the Agent to take such actions on its behalf and to exercise such
25 powers as are delegated to the Agent by the terms hereof or thereof, together with such actions
26 and powers as are reasonably incidental thereto. The provisions of this *Article 9* are solely for
27 the benefit of the Agent and the Lenders, and except as otherwise provided herein, the Borrower
28 shall not have rights as a third-party beneficiary of any of such provisions. It is understood and
29 agreed that the use of the term "Agent" herein or in any other Loan Documents (or any other
30 similar term) with reference to the Agent is not intended to connote any fiduciary or other
31 implied (or express) obligations arising under agency doctrine of any applicable law. Instead
32 such term is used as a matter of market custom, and is intended to create or reflect only an
33 administrative relationship between contracting parties.
34

35 Section 9.02 Rights as a Lender. The Person serving as the Agent hereunder shall
36 have the same rights and powers when acting in its capacity as a Lender as any other Lender, and
37 may exercise such rights and powers as though it were not the Agent, and the term "Lender" and
38 "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires,
39 include the Person serving as the Agent hereunder in its individual capacity. Such Person and its
40 affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor
41 or in any other advisory capacity for, and generally engage in any kind of business with, the
42 Borrower or any Subsidiary or other affiliate thereof as if such Person were not the Agent
43 hereunder and without any duty to account therefor to Lenders.

1 **Section 9.03 Exculpatory Provisions.**
2

3 (a) The duties and obligations of the Agent are only as expressly set forth
4 herein and in the other Loan Documents, and its duties hereunder shall be administrative in
5 nature. Without limiting the generality of the foregoing, the Agent:
6

7 (i) shall not be subject to any fiduciary or other implied duties,
8 regardless of whether a Default has occurred and is continuing;
9

10 (ii) shall not have any duty to take any discretionary action or exercise
11 any discretionary powers, except discretionary rights and powers expressly contemplated
12 hereby or by the other Loan Documents that the Agent is required to exercise as directed
13 in writing by the Majority Lenders (or such other number or percentage of Lenders as
14 shall be expressly provided for herein or in the other Loan Documents); *provided* that the
15 Agent shall not be required to take any action that, in its opinion or the opinion of its
16 counsel, may expose the Agent to liability or that is contrary to any Loan Document or
17 applicable law, including for the avoidance of doubt any action that may be in violation
18 of the automatic stay under any Insolvency Proceedings or that may effect a forfeiture,
19 modification or termination of property of a Defaulting Lender in violation of any
20 Insolvency Proceedings; and
21

22 (iii) shall not, except as expressly set forth herein and in the other Loan
23 Documents, have any duty to disclose, and shall not be liable for the failure to disclose,
24 any information relating to the Borrower or any of the Borrower's affiliates that is
25 communicated to or obtained by the Person serving as the Agent or any of its affiliates in
26 any capacity.
27

28 (b) The Agent shall not be liable for any action taken or not taken by it
29 (i) with the consent or at the request of the Majority Lenders (or such other number or percentage
30 of Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary,
31 under the circumstances as provided in Section 7.02 and Section 10.01), or (ii) in the absence of
32 its own gross negligence or willful misconduct. The Agent shall be deemed not to have
33 knowledge of any Default unless and until Notice describing such Default is given to the Agent
34 by the Borrower, a Lender.
35

36 (c) The Agent shall not be responsible for or have any duty to ascertain or
37 inquire into (i) any statement, warranty or representation made in or in connection with this
38 Agreement or any other Loan Document, (ii) the contents of any certificate, report or other
39 document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the
40 performance or observance of any of the covenants, agreements or other terms or conditions set
41 forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability,
42 effectiveness or genuineness of this Agreement, any other Loan Document or any other
43 agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article 6
44 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to
45 the Agent.

1 **Section 9.04 Reliance by the Agent.** The Agent shall be entitled to rely upon, and
2 shall not incur any liability for relying upon, any notice, request, certificate, consent, statement,
3 instrument, document or other writing (including any electronic message, Internet or intranet
4 website posting or other distribution) believed by it to be genuine and to have been signed, sent
5 or otherwise authenticated by the proper Person. The Agent also may rely upon any statement
6 made to it orally or by telephone and believed by it to have been made by the proper Person, and
7 shall not incur any liability for relying thereon (*provided* that the foregoing is not intended to be
8 construed or to operate in derogation of the Notice requirements in Section 10.02). In
9 determining compliance with any condition hereunder to the making of a Loan that by its terms
10 must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is
11 satisfactory to such Lender unless the Agent shall have received notice to the contrary from such
12 Lender prior to the making of such Loan. The Agent may consult with legal counsel (who may
13 be counsel for the Borrower), independent accountants and other experts selected by it, and shall
14 not be liable for any action taken or not taken by it in accordance with the advice of any such
15 counsel, accountants or experts.

16
17 **Section 9.05 Indemnification.** Lenders agree to indemnify the Agent (to the extent not
18 reimbursed under Section 10.03 and Section 10.04, but without limiting the obligations of the
19 Borrower under said Sections, and ratably in accordance with its respective Commitment) for
20 any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs,
21 expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred
22 by or asserted (including by any Lender) against the Agent arising out of or by reason of any
23 investigation in or in any way relating to or arising out of this Agreement or any other Loan
24 Document or any other documents contemplated by or referred to herein or therein or the
25 transactions contemplated hereby or thereby (including, without limitation, the costs and
26 expenses that the Borrower is obligated to pay under Section 10.03 and Section 10.04 but
27 excluding, unless a Default has occurred and is continuing, normal administrative costs and
28 expenses incident to the performance of its agency duties hereunder) or the enforcement of any
29 of the terms hereof or thereof or of any such other documents, *provided* that no Lender shall be
30 liable for any of the foregoing to the extent they arise from the gross negligence or willful
31 misconduct of the party to be indemnified as determined in a final nonappealable judgment by a
32 court of competent jurisdiction.

33
34 **Section 9.06 Delegation of Duties.** The Agent may perform any and all of its duties
35 and exercise its rights and powers hereunder or under any other Loan Document by or through
36 any one or more sub-agents appointed by the Agent. The exculpatory provisions of this Article
37 shall apply to the Agent's activities as the Agent, and also shall apply to the activities any such
38 sub-agent permitted herein. The Agent shall not be responsible for the negligence or misconduct
39 of any sub-agent except to the extent that such sub-agent acted with gross negligence or willful
40 misconduct.

41
42 **Section 9.07 Resignation or Removal of the Agent.**
43

44 (a) The Agent may at any time give Notice of its resignation to the Lenders
45 and the Borrower. Upon receipt of any such notice of resignation, the Majority Lenders shall
46 have the right, in consultation with the Borrower, and, so long as no Default is continuing,
47 subject to the consent of the Borrower, to appoint a successor, which shall be a bank with an

1 office in the United States, or an affiliate thereof with an office in the United States. If no such
2 successor shall have been so appointed by the Majority Lenders and shall have accepted such
3 appointment within thirty (30) days after the retiring Agent gives Notice of its resignation (or
4 such earlier day as shall be agreed by the Majority Lenders) (the “**Resignation Effective Date**”),
5 then the retiring Agent may (but shall not be obligated to), on behalf of the Lenders, in
6 consultation with the Borrower, and, so long as no Default is continuing, subject to the consent
7 of the Borrower, appoint a successor Agent meeting the qualifications set forth above. Whether
8 or not a successor has been appointed, such resignation shall become effective in accordance
9 with such Notice on the Resignation Effective Date.
10

11 (b) If the Person serving as the Agent is a Defaulting Lender pursuant to
12 clause (d) of the definition thereof, the Majority Lenders may, to the extent permitted by
13 applicable law, by Notice to the Borrower and such Person remove such Person as the Agent
14 and, in consultation with the Borrower, and, so long as no Default is continuing, subject to the
15 consent of the Borrower, appoint a successor, which successor Agent shall be a Lender and
16 maintain an office in the United States. If no such successor shall have been so appointed by the
17 Majority Lenders and shall have accepted such appointment within 30 days (or such earlier day
18 as shall be agreed by the Majority Lenders) (the “**Removal Effective Date**”), then such removal
19 shall nonetheless become effective in accordance with such Notice on the Removal Effective
20 Date.
21

22 (c) With effect from the Resignation Effective Date or the Removal Effective
23 Date (as applicable): (1) the retiring or removed Agent shall be discharged from its duties and
24 obligations hereunder and under the other Loan Documents (except that, in the event any
25 collateral security is then being held by the Agent on behalf of the Lenders under any of the Loan
26 Documents, the retiring or removed Agent shall continue to hold such collateral security until
27 such time as a successor Agent is appointed); and (2) except for any indemnity payments owed
28 to the retiring or removed Agent, all payments, communications and determinations provided to
29 be made by, to or through the Agent shall instead be made by or to each of the Lenders directly,
30 until such time, if any, as the Majority Lenders appoint a successor Agent as provided for in this
31 Section 9.07. Upon the acceptance by a successor of such appointment for it to act as successor
32 Agent hereunder, such successor shall succeed to and become vested with all of the rights,
33 powers, privileges and duties of the retiring or removed Agent (other than any rights to
34 indemnity payments owed to the retiring or removed Agent), and the retiring or removed Agent
35 shall, except as provided above, be discharged from all of its duties and obligations hereunder or
36 under the other Loan Documents (*provided* that the foregoing shall not relieve the retiring or
37 removed Agent from any liability for its gross negligence or willful misconduct hereunder). The
38 fees payable by the Borrower to a successor Agent shall be the same as those payable to the
39 predecessor Agent unless otherwise agreed between the Borrower and such successor Agent.
40 After the retiring or removed Agent’s resignation or removal hereunder and under the other Loan
41 Documents, the provisions of this Article 9 and Section 10.03 and Section 10.04 shall continue in
42 effect for the benefit of such retiring or removed Agent and its sub-agents in respect of any
43 actions taken or omitted to be taken by any of them while the retiring or removed Agent was
44 acting as the Agent hereunder.
45

46 **Section 9.08 Non-Reliance on the Agent and Other Lenders.** Each of the Lenders
47 acknowledges that it has, independently and without reliance upon the Agent or any other Lender

1 or any of their Related Parties and based on such documents and information as it has deemed
2 appropriate, made its own credit analysis and decision to enter into this Agreement. Each of the
3 Lenders also acknowledges that it will, independently and without reliance upon the Agent or
4 any other Lender or any of their Related Parties, and based on such documents and information
5 as it shall from time to time deem appropriate, continue to make its own decisions in taking or
6 not taking action under or based upon this Agreement, any other Loan Document or any related
7 agreement or any document furnished hereunder or thereunder.
8

9 **Section 9.09 No Other Duties, etc.** Anything herein to the contrary notwithstanding,
10 none of the Arrangers or Bookrunners listed on the cover page hereof shall have any powers,
11 duties or responsibilities under this Agreement or any of the other Loan Documents, except in its
12 capacity, as applicable, as the Agent or a Lender hereunder.
13

14 **Section 9.10 Lender ERISA Matters.** (a) Each of the Lenders (x) represents and
15 warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from
16 the date such Person became a Lender party hereto to the date such Person ceases being a Lender
17 party hereto, for the benefit of, the Agent and its respective affiliates, and not, for the avoidance
18 of doubt, to or for the benefit of the Borrower, that at least one of the following is and will be
19 true:
20

21 (i) such Lender is not using “plan assets” (within the meaning of
22 Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such
23 Lender’s entrance into, participation in, administration of and performance of, the Loans,
24 the commitments or this Agreement,
25

26 (ii) the transaction exemption set forth in one or more PTEs, such as
27 PTE 84-14 (a class exemption for certain transactions determined by independent
28 qualified professional asset managers), PTE 95-60 (a class exemption for certain
29 transactions involving insurance company general accounts), PTE 90-1 (a class
30 exemption for certain transactions involving insurance company pooled separate
31 accounts), PTE 91-38 (a class exemption for certain transactions involving bank
32 collective investment funds) or PTE 96-23 (a class exemption for certain transactions
33 determined by in-house asset managers), is applicable with respect to such Lender’s
34 entrance into, participation in, administration of and performance of the Loans, the
35 Commitments and this Agreement,
36

37 (iii) (A) such Lender is an investment fund managed by a “Qualified
38 Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such
39 Qualified Professional Asset Manager made the investment decision on behalf of such
40 Lender to enter into, participate in, administer and perform the Loans, the commitments
41 and this Agreement, (C) the entrance into, participation in, administration of and
42 performance of the Loans, the commitments and this Agreement satisfies the
43 requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best
44 knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are
45 satisfied with respect to such Lender’s entrance into, participation in, administration of
46 and performance of the Loans, the commitments and this Agreement, or

1 (iv) such other representation, warranty and covenant as may be agreed
2 in writing between the Agent, in its sole discretion, and such Lender,
3

4 (b) In addition, unless either (1) sub-clause (i) in the immediately preceding
5 clause (a) is true with respect to a Lender or (2) a Lender has not provided another
6 representation, warranty and covenant in accordance with sub-clause (iv) in the immediately
7 preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person
8 became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender
9 party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the
10 Agent and its affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower,
11 that none of the Agent or any of its affiliates, and not, for the avoidance of doubt, to or for the
12 benefit of the Borrower, that none of the Agent or any of its affiliates is a fiduciary with respect
13 to the assets of such Lender involved in such Lender's entrance into, participation in,
14 administration of and performance of the Loans, the commitments and this Agreement (including
15 in connection with the reservation or exercise of any rights by the Agent under this Agreement,
16 any Loan Document or any documents related to hereto or thereto).
17

18 As used in this Section:
19

20 "Benefit Plan" means any of (a) an "employee benefit plan" (as defined in ERISA) that
21 is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code
22 or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for
23 purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such "employee
24 benefit plan" or "plan".
25

26 "PTE" means a prohibited transaction class exemption issued by the U.S. Department of
27 Labor, as any such exemption may be amended from time to time.
28

29 ARTICLE 10 - MISCELLANEOUS 30

31 Section 10.01. Consents, Amendments, Waivers, Etc. Except as otherwise provided in
32 this Agreement, any consent or approval required or permitted by this Agreement to be given by
33 one or more or all of the Lenders may be given, and any term of this Agreement or of any other
34 instrument related hereto or mentioned herein may be amended, and the performance or
35 observance by the Borrower of any terms of this Agreement or such other instrument or the
36 continuance of any Default may be waived (either generally or in a particular instance and either
37 retroactively or prospectively) with, but only with, the written consent of the Borrower and the
38 written consent of the Majority Lenders. Notwithstanding the foregoing, (a) the rate of interest
39 on and the term of the Loans, the Maturity Date, the principal amount of the Loans owing to each
40 Lender, the dates on which interest is required to be paid hereunder, the amount and dates of
41 payment of the fees or principal owing each Lender hereunder may not be changed, the amount
42 of any Lender's commitment hereunder may not be increased and the tenor of such Lender's
43 obligations hereunder may not be extended, in any such case without the written consent of
44 Borrower and the written consent of each Lender affected thereby; (b) Article 9, this Section
45 10.01, the definition of Majority Lenders, the definition of Pro Rata Share and any provision of
46 the Loan Documents that requires action by all of the Lenders may not be amended without the
47 written consent of all of the Lenders and (c) Article 9 may not be amended without the written

1 consent of the Agent. No waiver shall extend to or affect any obligation not expressly waived or
2 impair any right consequent thereon. No course of dealing or delay or omission on the part of
3 the Agent or any Lender in exercising any right shall operate as a waiver thereof or otherwise be
4 prejudicial thereto. No notice to or demand upon the Borrower shall entitle the Borrower to
5 other or further notice or demand in similar or other circumstances.
6

7 Section 10.02. Notices. Except as otherwise expressly provided in this Agreement, all
8 notices, demands, consents, waivers, elections, approvals, requests, and similar communications
9 required or permitted to be provided in connection with this Agreement (any of the foregoing
10 being referred to as a "Notice") shall be set forth in writing and shall be given by registered or
11 certified mail (return receipt requested) or by recognized nationwide courier service (with
12 signature required to evidence receipt), and shall be deemed received by the addressee Party
13 when delivered during normal business hours to such Party's address as shown below (or such
14 other address as that Party may specify from time to time in written Notice given pursuant hereto
15 not less than thirty (30) days prior to the date that the new address is intended to become
16 effective); provided that (x) any Notice delivered in accordance with *Article 2* or *Article 3* may
17 be delivered by facsimile or other specified electronic delivery system acceptable to the Agent
18 and the Borrower, and (y) any Notice delivered to the appropriate address for the receiving Party
19 at any time other than during normal business hours will be deemed to be given and received by
20 the receiving Party on the next Business Day thereafter:
21

22 (a) if to the Borrower, at 700 Universe Boulevard, Juno Beach, Florida 33408
23 8801, Attention: Treasurer (and for purposes of Notices which can be provided, or confirmed
24 telephonically or by facsimile as specified in Article 2 or Article 3, Telephone No. (561) 694-
25 6204, Facsimile No. (561) 694-3707), or at such other Notice address as the Borrower shall last
26 have furnished in writing to the Agent in accordance with this *Section 10.02*;
27

28
29 (b) if to the Agent, at [REDACTED],
30 [REDACTED] or such other Notice address as the Agent shall last have furnished in writing to the
31 Person giving the notice;
32

33 (c) if to a Lender, at the Notice address specified in *Schedule I*, or such other
34 Notice address as the Lender shall last have furnished in writing to the Agent and the Borrower
35 in accordance with this *Section 10.02*.
36

37 Section 10.03. Expenses. The Borrower agrees to pay promptly following receipt of
38 written invoices describing in reasonable detail (a) the reasonable fees, expenses and
39 disbursements of the Agent's external counsel incurred in connection with the administration or
40 interpretation of the Loan Documents and other instruments mentioned herein, the negotiation of
41 this Agreement and the closing hereunder, and amendments, modifications, approvals, consents
42 or waivers hereto or hereunder, (b) the reasonable fees, expenses and disbursements of the Agent
43 in connection with the administration or interpretation of the Loan Documents and other
44 instruments mentioned herein, and (c) all reasonable out of pocket expenses including reasonable
45 external attorneys' fees and costs incurred by the Agent or any Lender (provided that the
46 Borrower shall only be responsible for the reasonable fees and expenses of one counsel engaged
47 to represent all such Parties taken as a whole, unless any actual or potential conflict of interest
48

1 between such Parties makes it inappropriate for one counsel to represent all such Parties, in
2 which event the Borrower shall be responsible for the reasonable fees and expenses of one
3 additional counsel for each group of affected Parties similarly situated taken as a whole) in
4 connection with (i) the enforcement of or preservation of rights under any of the Loan
5 Documents against the Borrower or the administration thereof after the occurrence of a Default,
6 (ii) defending against any action brought by the Borrower or its affiliates against the Agent or
7 any Lender arising under or relating to any of the Loan Documents unless the Borrower or its
8 affiliates are the prevailing party in such action, and (iii) any litigation, proceeding or dispute
9 brought by such Lender or the Agent against the Borrower (whether arising hereunder or
10 otherwise in connection with the transactions contemplated hereby) in which such Lender or the
11 Agent is the prevailing party (but without derogation to the provisions of *Section 10.04*). The
12 covenants of this *Section 10.03* shall survive payment or satisfaction of payments of amounts
13 owing with respect to any Notes as may be issued hereunder.
14

15 Section 10.04. Indemnification. The Borrower agrees to indemnify and hold harmless
16 the Agent, the Lenders and their Related Parties (each, an “Indemnitee”) from and against any
17 and all claims, actions and suits by a third party (which third party may, for these purposes,
18 include the Agent or a Lender (collectively, “Actions”), whether groundless or otherwise, and
19 from and against any and all liabilities, losses, damages and expenses payable by any Indemnitee
20 to any third party (which third party may, for these purposes, include the Agent or a Lender)
21 (collectively, “Liabilities”) of every nature and character incurred by or awarded against any
22 such Indemnitee (including the reasonable fees and expenses of counsel), in each case arising out
23 of this Agreement or any of the other Loan Documents or the transactions contemplated hereby
24 including, without limitation, (a) any actual or proposed use by the Borrower of the proceeds of
25 the Loans, or (b) the Borrower entering into or performing this Agreement or any of the other
26 Loan Documents; *provided* that the liabilities, losses, damages and expenses indemnified
27 pursuant to this *Section 10.04* shall not include any liabilities, losses, damages and expenses in
28 respect of any taxes, levies, imposts, deductions, charges or withholdings, indemnification for
29 which is provided on the basis, and to the extent, specified in *Section 3.09*; and *provided further*,
30 that such indemnity shall not be available as to any Indemnitee, to the extent that such liabilities,
31 losses, damages and expenses arise out of the gross negligence, bad faith or willful misconduct
32 of such Indemnitee or any of its Related Parties as determined in a final nonappealable judgment
33 by a court of competent jurisdiction. In the event that any Indemnitee shall become subject to
34 any Action or Liability with respect to any matter for which indemnification may apply pursuant
35 to this *Section 10.04* (an “Indemnity Claim”), such Indemnitee shall give Notice of such
36 Indemnity Claim to the Borrower by telephone at (561) 694 6204 and also in accordance with the
37 written Notice requirements in *Section 10.02*. Such Indemnitee may retain counsel and conduct
38 the defense of such Indemnity Claim, as it may in its sole discretion deem proper, at the sole cost
39 and expense of the Borrower. So long as no Default shall have occurred and be continuing
40 hereunder, no Indemnitee shall compromise or settle any claim without the prior written consent
41 of the Borrower, which consent shall not unreasonably be withheld or delayed (provided that the
42 Borrower shall only be responsible for the reasonable fees and expenses of one counsel for all
43 Indemnitees taken as a whole unless any actual or potential conflict of interest between such
44 Indemnitees makes it inappropriate for one counsel to represent all such Indemnitees, in which
45 event the Borrower shall be responsible for the reasonable fees and expenses of one additional
46 counsel for each group of affected Indemnitees similarly situated taken as a whole). If, and to
47 the extent that the obligations of the Borrower under this *Section 10.04* are unenforceable for any

1 reason, the Bonower hereby agrees to make the maximum contribution to the payment in
2 satisfaction of such obligations which is permissible under applicable law. In the case of an
3 investigation, litigation or other proceeding to which the indemnity in this *Section 10.04* applies,
4 such indemnity shall be effective whether or not the affected Indemnitee is a party thereto and
5 whether or not the transactions contemplated hereby are consummated. The Parties agree not to
6 assert any claim against any other Party or any of its affiliates, or any of its directors, officers,
7 employees, attorneys and agents, on any theory of liability, for special, indirect, consequential or
8 punitive damages arising out of or otherwise relating to this Agreement, any other Loan
9 Document, any of the transactions contemplated herein or the actual or proposed use of the
10 proceeds of the Loans (provided that the foregoing shall not preclude any Indemnitee from
11 seeking to recover the preceding types of damages from the Bonower to the extent the same are
12 specifically payable by such Indemnitee to any third party).

13
14 **Section 10.05. Survival of Covenants.** All covenants, agreements representations and
15 warranties made herein, in the Notes, in any of the other Loan Documents or in any documents
16 or other papers delivered by or on behalf of the Bonower pursuant hereto shall be deemed to
17 have been relied upon by the Agent and the Lenders, notwithstanding any investigation
18 heretofore or hereafter made by any of them, and shall survive the making by the Lenders of the
19 Loans, as herein contemplated, and shall continue in full force and effect so long as any amount
20 due under this Agreement, the Notes, or any of the other Loan Documents remains outstanding.
21 All statements contained in any certificate or other paper delivered to the Agent or any Lender at
22 any time by or on behalf of the Bonower pursuant hereto or in connection with the transactions
23 contemplated hereby, shall constitute representations and Warranties by the Bonower hereunder.

24
25
26
27
28

29 **Section 10.06. Assignment and Participations.**

30
31 (a) **Successors and Assigns Generally.** The provisions of this Agreement
32 shall be binding upon and inure to the benefit of the Parties and their respective successors and
33 assigns permitted hereby, except that the Bonower may not assign or otherwise transfer any of
34 its rights or obligations hereunder without the prior written consent of the Agent and each of the
35 Lenders, and no Lender may assign or otherwise transfer any of its rights or obligations
36 hereunder except (i) to an assignee in accordance with the provisions of *Section 10.06(b)* or
37 *Section 10.06(f)*. (ii) by way of participation in accordance with the provisions of
38 *Section 10.06(d)*. or (iii) by way of pledge or assignment of a security interest subject to the
39 restrictions of *Section 10.06(e)* (and any other attempted assignment or transfer by any Party
40 shall be null and void). Other than as specified in *Section .08* and *Section 10.04*, nothing in this
41 Agreement, expressed or implied, shall be construed to confer upon any Person (other than the
42 Parties, their respective successors and assigns permitted hereby, and Participants to the extent
43 provided in *Section 10.06(d)*) any legal or equitable right, remedy or claim under or by reason of
44 this Agreement.

45
46 (b) **Assignments by Lenders.** Any Lender may at any time assign to one or
47 more assignees all or a portion of its rights and obligations under this Agreement (including all

1 or a portion of its commitment and the Loans at the time owing to it); *provided* that any such
2 assignment shall be subject to the following conditions:
3

4 (i) *Minimum Amounts.*
5

6 (A) in the case of an assignment of the entire remaining amount
7 of the assigning Lender's commitment and/or the Loans at
8 the time owing to it, no minimum amount need be
9 assigned; and
10

11 (B) in any case not described in Section 10.06(b)(i)(A), the
12 principal outstanding balance of the Loans of the assigning
13 Lender subject to each such assignment (determined as of
14 the date the Assignment and Assumption Agreement made
15 pursuant to an Assignment and Assumption Agreement in
16 the form of Exhibit E hereto (the "**Assignment and**
17 **Assumption Agreement**") with respect to such assignment
18 is delivered to the Agent or, if "**Trade Date**" is specified in
19 the Assignment and Assumption Agreement, as of the
20 Trade Date) shall not be less than [REDACTED]
21 [REDACTED], unless each of the Agent and, so long as no
22 Event of Default has occurred and is continuing, the
23 Borrower otherwise consents.
24

25 (ii) *Proportionate Amounts.* Each partial assignment shall be made as
26 an assignment of a proportionate part of all the assigning Lender's rights and obligations
27 under this Agreement with respect to the Loan assigned.
28

29 (iii) *Required Consents.* No consent shall be required for any
30 assignment except to the extent required by Section 10.06(b)(i)(B) and, in addition:
31

32 (A) the consent of the Borrower (such consent not to be
33 unreasonably withheld or delayed) shall be required unless
34 (x) an Event of Default has occurred and is continuing at
35 the time of such assignment, or (y) such assignment is to an
36 Initial Lender that has been an Initial Lender from and
37 since the Effective Date or is an affiliate of such an Initial
38 Lender which is majority-owned and controlled by such
39 Initial Lender or any corporation controlling such Initial
40 Lender; and
41

42 (B) the consent of the Agent (such consent not to be
43 unreasonably withheld or delayed) shall be required for
44 assignments in respect of the Loans and/or commitments if
45 such assignment is to a Person that is not a Lender or an
46 affiliate of such Lender which is majority-owned and

1 controlled by such Lender or any corporation controlling
2 such Lender.
3

4 (iv) *Assignment and Assumption Agreement.* The parties to each
5 assignment shall execute and deliver to the Agent an Assignment and Assumption
6 Agreement, together with a processing and recordation fee of [REDACTED] provided that
7 the Agent may, in its sole discretion, elect to waive such processing and recordation fee
8 in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the
9 Agent an Administrative Questionnaire.
10

11 (v) *No Assignment to Certain Persons.* No such assignment shall be
12 made to (A) the Borrower or any of the Borrower's affiliates or Subsidiaries or (B) to any
13 Defaulting Lender or any of its affiliates or Subsidiaries, or any Person who, upon
14 becoming a Lender hereunder, would constitute any of the foregoing Persons described in
15 this clause (B).
16

17 (vi) *No Assignment to Natural Persons.* No such assignment shall be
18 made to a natural Person.
19

20 (vii) *Certain Additional Payments.* In connection with any assignment
21 of rights and obligations of any Defaulting Lender hereunder, no such assignment shall
22 be effective unless and until, in addition to the other conditions thereto set forth herein,
23 the Defaulting Lender or its assignee shall make such additional payments to the Agent in
24 an aggregate amount sufficient, upon distribution thereof as appropriate (which may be
25 outright payment, purchases by the assignee of participations, or other compensating
26 actions, including funding, with the consent of the Borrower and the Agent, the
27 applicable pro rata share of Loans previously requested but not funded by the Defaulting
28 Lender, to each of which the applicable assignee and assignor hereby irrevocably
29 consent), to (x) pay and satisfy in full all payment liabilities then owed by such
30 Defaulting Lender to the Agent and each other Lender hereunder (and interest accrued
31 thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans in
32 accordance with its Pro Rata Share. Notwithstanding the foregoing, in the event that any
33 assignment of rights and obligations of any Defaulting Lender hereunder shall become
34 effective under applicable law without compliance with the provisions of this paragraph,
35 then the assignee of such interest shall be deemed to be a Defaulting Lender for all
36 purposes of this Agreement until such compliance occurs.
37

38 Subject to acceptance and recording thereof by the Agent pursuant to Section 10.06(c),
39 from and after the effective date specified in each Assignment and Assumption
40 Agreement, the assignee thereunder shall be a party to this Agreement and, to the extent
41 of the interest assigned by such Assignment and Assumption Agreement, shall have the
42 rights and obligations of (as applicable) a Lender under this Agreement, and the assigning
43 Lender thereunder shall, to the extent of the interest assigned by such Assignment and
44 Assumption Agreement, be released from its obligations under this Agreement (and, in
45 the case of an Assignment and Assumption Agreement covering all of the assigning
46 Lender's rights and obligations under this Agreement, such Lender shall cease to be a
47 Party hereto) but (i) shall continue to be entitled to the benefits of Article 3, Section 9.05,

1 modification, supplement or waiver hereof to the extent that the same, under Section 10.01,
2 requires the consent of each of the Lenders. Each of the Lenders that sells a participation shall,
3 acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on
4 which it enters the name and address of each Participant and the principal amounts (and stated
5 interest) of each Participant's interest in the Loans or other obligations under the Loan
6 Documents (the "**Participant Register**"); *provided* that no Lender shall have any obligation to
7 disclose all or any portion of the Participant Register (including the identity of any Participant or
8 any information relating to a Participant's interest in any commitments, loans, letters of credit or
9 its other obligations under any Loan Document) to any Person except to the extent that such
10 disclosure is necessary to establish that such commitment, loan, letter of credit or other
11 obligation is in registered form under Section 5f.103-1(c) of the United States Treasury
12 Regulations. The entries in the Participant Register shall be conclusive absent manifest error,
13 and such Lender shall treat each Person whose name is recorded in the Participant Register as the
14 owner of such participation for all purposes of this Agreement notwithstanding any notice to the
15 contrary. For the avoidance of doubt, the Agent (in its capacity as the Agent) shall have no
16 responsibility for maintaining a Participant Register.
17

18 (e) Certain Pledges. Any Lender may at any time pledge or assign a security
19 interest in all or any portion of its rights under this Agreement to secure obligations of such
20 Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank;
21 *provided* that no such pledge or assignment shall release such Lender from any of its obligations
22 hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.
23

24 (f) Disclosure. The Borrower agrees that any Lender may disclose
25 information obtained by such Lender pursuant to this Agreement to assignees, participants or
26 counterparties to any swap or derivative transaction relating to the transactions contemplated
27 pursuant to this Agreement and potential assignees or participants hereunder or counterparties as
28 aforesaid; *provided* that such assignees, participants or counterparties or potential assignees,
29 participants or counterparties shall agree (i) to preserve the confidentiality of such information
30 pursuant to a confidentiality agreement that provides for the same terms set forth in
31 Section 10.07, (ii) not to disclose such information to a third party, and (iii) not to make use of
32 such information for purposes of transactions unrelated to such contemplated assignment or
33 participation.
34

35 Section 10.07. Confidentiality. The Agent and each Lender agrees to hold any
36 confidential information that it may receive from the Borrower or any of its Subsidiaries
37 pursuant to this Agreement or any of the Loan Documents or in connection with any transaction
38 contemplated herein or therein in confidence except for disclosure: (a) to its affiliates, officers,
39 directors, employees, consultants, advisors, attorneys, accountants, auditors and other agents
40 deemed reasonably necessary to effectuate the transaction contemplated herein or therein;
41 provided that such parties shall be advised of the requirement to maintain the confidentiality of
42 such information and the Agent or Lender, as the case may be, shall be responsible for any such
43 party's breach of such confidentiality agreement; (b) to regulatory officials having jurisdiction
44 over the Agent or such Lender, or financial regulatory bodies claiming oversight over the Agent
45 or such Lender; (c) as required by applicable law or legal process (provided that in the event the
46 Agent or any Lender is so required to disclose any such confidential information, the Agent or
47 any such Lender shall endeavor to notify promptly the Borrower so that the Borrower may seek a
48

1 protective order or other appropriate remedy if not prohibited by law and if practicable to do
2 under the circumstances); (d) to any assignee or participant or any potential assignee or
3 participant, provided that such parties shall be advised of the requirement to maintain the
4 confidentiality of such information and shall agree to the provisions hereof; (e) in connection
5 with the exercise of any remedies hereunder or any suit, action or proceeding relating to this
6 Agreement or the enforcement of rights hereunder and (f) subject to an agreement containing
7 provisions substantially the same as those of this Section, to any direct or indirect contractual
8 counterparty or prospective counterparty (or such contractual counterparty's or prospective
9 counterparty's professional advisor) to any credit derivative transaction relating to obligations of
10 the Borrower. For purposes of this Agreement (x) the term "confidential information" means all
11 information respecting the Borrower and its Subsidiaries, or any of them, other than (i)
12 information previously filed with any governmental or quasi governmental agency, authority,
13 board, bureau, commission, department, instrumentality or public body or which is otherwise
14 available to the public, (ii) information which is delivered by the Borrower to the Agent or any
15 Lender that it expressly identifies as non confidential, (iii) information previously published in
16 any public medium from a source other than, directly or indirectly, the Agent or any Lender, and
17 (iv) information which is received by the Agent or any Lender from any third party which the
18 Agent or such Lender reasonably believes, after due inquiry, was not and is not, violating any
19 obligation of confidentiality to the Borrower and (y) "affiliate" means, with respect to any
20 Lender any Person which is majority-owned and controlled by such Lender or any corporation
21 controlling such Lender.
22

23 Section 10.08. Governing Law; Jurisdiction. THIS AGREEMENT AND EACH OF
24 THE OTHER LOAN DOCUMENTS, EXCEPT AS OTHERWISE SPECIFICALLY
25 PROVIDED THEREIN, ARE CONTRACTS UNDER THE LAWS OF THE STATE OF NEW
26 YORK AND SHALL FOR ALL PURPOSES BE CONSTRUED IN ACCORDANCE WITH
27 AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD
28 TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREUNDER (OTHER THAN §5-1401
29 OF THE NEW YORK GENERAL OBLIGATIONS LAW). THE PARTIES AGREE THAT
30 ANY SUIT FOR THE ENFORCEMENT OF THIS AGREEMENT OR ANY OF THE OTHER
31 LOAN DOCUMENTS SHALL ONLY BE BROUGHT IN THE COURTS OF THE STATE
32 AND COUNTY OF NEW YORK OR ANY FEDERAL COURT SITTING IN THE BOROUGH
33 OF MANHATTAN, NEW YORK, AND CONSENT TO THE EXCLUSIVE JURISDICTION
34 OF SUCH COURTS AND THE SERVICE OF PROCESS IN ANY SUCH SUIT BEING
35 MADE UPON THE RELEVANT PARTIES BY MAIL AT THEIR RESPECTIVE
36 ADDRESSES IN ACCORDANCE WITH SECTION 10.02. EACH PARTY HEREBY
37 WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE
38 VENUE OF ANY SUCH SUIT OR ANY SUCH COURT OR THAT SUCH SUIT IS
39 BROUGHT IN AN INCONVENIENT FORUM
40

41 Section 10.09. Headings. The captions in this Agreement are for convenience of
42 reference only and shall not define or limit the provisions hereof.
43

44 Section 10.10. Counterparts. This Agreement and any amendment hereof may be
45 executed in several counterparts and by each Party on a separate counterpart, each of which
46 when so executed and delivered shall be an original, and all of which together shall constitute
47 one instrument. In proving this Agreement it shall not be necessary to produce or account for
48

1 more than one such counterpart signed by the Party against whom enforcement is sought.
2 Delivery of an executed counterpart of a signature page to this Agreement by telecopy
3 transmission or by emailing a pdf file shall be effective as delivery of a manually executed
4 counterpart of this Agreement.
5

6 Section 10.11. Entire Agreement. The Loan Documents and any other documents
7 executed in connection herewith or therewith express the entire understanding of the Parties with
8 respect to the transactions contemplated hereby. Neither this Agreement nor any term hereof
9 may be changed, waived, discharged or terminated, except as provided in *Section 10.01*.
10

11 Section 10.12. Severability. The provisions of this Agreement are severable and if any
12 one clause or provision hereof shall be held invalid or unenforceable in whole or in part in any
13 jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or
14 part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in
15 any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.
16

17 Section 10.13. Third Party Beneficiaries. None of the provisions of this Agreement shall
18 operate or are intended to operate for the benefit of, any Person other than the Parties hereto, and
19 no other Person shall have any rights under or with respect hereto (except to the limited extent
20 expressly provided for with respect to any Indemnitee under *Section 10.04*).
21

22 Section 10.14. USA Patriot Act Notice. The Agent (for itself and not on behalf of any of
23 the Lenders) and each Lender hereby notifies the Borrower that pursuant to the requirements of
24 the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"),
25 it is required to obtain, verify and record information that identifies the Borrower, which
26 information includes the name and address of the Borrower and other information that will allow
27 the Agent and such Lender to identify the Borrower in accordance with the Act.
28

29 Section 10.15. No Fiduciary Duties. The Borrower agrees that in connection with all
30 aspects of the transactions contemplated hereby and any communications in connection
31 therewith, the Borrower and its affiliates, on the one hand, and the Agent, the Lender and their
32 respective affiliates, on the other hand, will have a business relationship that does not create, by
33 implication or otherwise, any fiduciary duty on the part of the Agent, and the Lenders or their
34 respective affiliates.
35

36 Section 10.16. Electronic Records. The Borrower hereby acknowledges the receipt of a
37 copy of this Agreement. The Agent and each Lender may, on behalf of the Borrower, create a
38 microfilm or optical disk or other electronic image of this Agreement and may store the
39 electronic image of this Agreement in its electronic form and then destroy the paper original as
40 part of the Agent or any Lender's normal business practices, with the electronic image deemed to
41 be an original.
42

43 Section 10.17. WAIVER OF JURY TRIAL. THE BORROWER, THE AGENT AND
44 EACH LENDER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL
45 WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN
46 CONNECTION WITH THIS AGREEMENT, THE NOTES OR ANY OF THE OTHER LOAN
47 DOCUMENTS, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER OR

1 THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. THE BORROWER (A)
2 CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE AGENT OR
3 ANY LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE AGENT
4 OR ANY LENDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE
5 THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT THE AGENT AND EACH
6 LENDER HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER
7 LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE WAIVER AND
8 CERTIFICATIONS CONTAINED IN THIS SECTION 10.17.
9

10 Section 10.18. Acknowledgement and Consent to Bail-In of EEA Financial Institutions.
11 Notwithstanding anything to the contrary in any Loan Document or any other agreement,
12 arrangement or understanding among any such parties, each party hereto acknowledges that any
13 liability of any EEA Financial Institution arising under any Loan Document, to the extent such
14 liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA
15 Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:
16

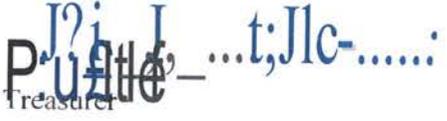
- 17 (a) the application of any Write-Down and Conversion Powers by an EEA Resolution
18 Authority to any such liabilities arising hereunder which may be payable by it to any
19 party hereto that is an EEA Financial Institution; and
20
21 (b) the effects of any Bail-In Action on any such liability, including, if applicable:
22
23 (i) a reduction in full or in part or cancellation of any such liability;
24
25 (ii) a conversion of all, or a portion of, such liability into shares or other instruments
26 of ownership in such EEA Financial Institution, its parent undertaking, or a bridge
27 institution that may be issued to it or otherwise conferred on it, and that such
28 shares or other instruments of ownership will be accepted by it in lieu of any
29 rights with respect to any such liability under this Agreement or any other Loan
30 Documents;
31
32 (iii) the variation of the terms of such liability in connection with the exercise of the
33 Write-Down and Conversion Powers of any EEA Resolution Authority.
34
35

36 **IN WITNESS WHEREOF**, the undersigned have duly executed this Agreement as a
37 sealed instrument as of the date first set forth above.
38
39
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41

42 [SIGNATURES APPEAR ON THE FOLLOWING PAGES]

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GULF POWER COMPANY

By: 
6
7 Treasurer

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**SCHEDULE I
TO TERM LOAN AGREEMENT**

LENDER

<p>[REDACTED]</p> <p><u>Lending Office and Address for Notices for all Loans:</u></p> <p>[REDACTED]</p>	<p>\$300,000,000.00</p>
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**SCHEDULE 4.03
TO TERM LOAN AGREEMENT**

3

PERMITTED LIENS

- 4 1. Liens to secure taxes, assessments and other government charges or claims for labor,
5 material or supplies in respect of obligations not overdue;
6
7 2. Deposits or pledges made in connection with, or to secure payment of, workmen's
8 compensation, unemployment insurance, old age pensions or other social security
9 obligations;
10
11 3. Liens of carriers, warehousemen, mechanics and materialmen, and other like liens, which
12 liens do not individually or in the aggregate have a materially adverse effect on the
13 business of the Borrower; and
14
15 4. Encumbrances consisting of easements, rights of way, zoning restrictions, restrictions on
16 the use of real property and defects and irregularities in the title thereto, landlord's or
17 lessor's liens under leases to which the Borrower or any of its Subsidiaries is a party, and
18 other minor liens or encumbrances none of which in the opinion of the Borrower
19 interferes materially with the use of the property affected in the ordinary conduct of the
20 business of the Borrower, which defects, liens and other encumbrances do not
21 individually or in the aggregate have a materially adverse effect on the business of the
22 Borrower.

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**SCHEDULE 4.04
TO TERM LOAN AGREEMENT**

SUPPLEMENTAL DISCLOSURES

[None.]

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**SCHEDULE 4.06
TO TERM LOAN AGREEMENT**

LITIGATION

[None.]

EXIDBIT A TO AGREEMENT

[Form of Borrowing Notice]

BORROWING NOTICE

[Date]

Ladies and Gentlemen:

The undersigned, GULF POWER COMPANY, a Florida corporation (the "BoITower"), refers to the Tenn Loan Agreement, dated as of September 30, 2019 (as amended or modified from time to time, the "Credit Agreement", the terms defined therein being as defined), among the undersigned, the Lenders party thereto and Administrative Agent (the "Agent") and Lender, and hereby requests a boITowing of a Loan under the Agreement, and in that connection sets forth below the information relating to the boITowing (the "Proposed BoITowing") as required by *Section 2.02(a)* of the Agreement.

- (i) The Business Day of the Proposed BoITowing is _____.
- (ii) The Proposed BoITowing is a Emodollar Rate Loan with an initial Interest Period **of** _____
- (iii) The aggregate amount of the Proposed BoITowing is US\$ _____

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the date of the Proposed BoITowing:

- (A) No Default shall have occurred and be continuing or will occur upon the making of the Proposed BoITowing, and
- (B) Each of the representations and warranties contained in the Credit Agreement, the other Loan Documents or in any document or instrument delivered pursuant to or in connection with the Credit Agreement will be true in all material respects as of the time of the making of the Proposed BoITowing with the same effect as if made at and as of that time (except to the extent that such representations and warranties relate expressly to an earlier date).

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Very truly yours,

GULF POWER COMPANY

By:
Paul I. Cutler
Treasurer

[Gulf Power Company / BMO – Term Loan Credit – Signature Page – Borrowing Notice]

1 **EXHIBIT B TO AGREEMENT**

2
3 **[Form of Note]**

4 **NOTE**

5
6 \$300,000,000.00

Dated: September 30, 2019

7
8 FOR VALUE RECEIVED, the undersigned, GULF POWER COMPANY, a Florida corporation
9 (hereinafter, together with its successors in title and assigns, called "**Borrower**"), by this
10 promissory note (hereinafter called "**this Note**"), absolutely and unconditionally promises to pay
11 to the order of [REDACTED] (hereinafter, together with its successors in title and
12 permitted assigns, called "**Lender**" or "**Holder**"), the principal sum of THREE HUNDRED
13 MILLION DOLLARS AND NO/100 DOLLARS (\$300,000,000.00), or the aggregate unpaid
14 principal amount of the Loan evidenced by this Note made by Lender to Borrower pursuant to
15 the Agreement (as hereinafter defined), whichever is less, on the Maturity Date (as defined in the
16 Agreement), and to pay interest on the principal sum outstanding hereunder from time to time
17 from the Effective Date until the said principal sum or the unpaid portion thereof shall have been
18 paid in full.

19
20 The unpaid principal (not at the time overdue) of this Note shall bear interest at the annual rate
21 from time to time in effect under the Agreement referred to below (the "**Applicable Rate**").
22 Accrued interest on the unpaid principal under this Note shall be payable on the dates, and in the
23 manner, specified in the Agreement.

24
25 On the Maturity Date there shall become absolutely due and payable by Borrower hereunder, and
26 the Borrower hereby promises to pay to the Holder (as hereinafter defined) hereof, the balance (if
27 any) of the principal hereof then remaining unpaid, all of the unpaid interest accrued hereon and
28 all (if any) other amounts payable on or in respect of this Note or the indebtedness evidenced
29 hereby.

30
31 Overdue principal of the Loans, and to the extent permitted by applicable law, overdue interest
32 on the Loans and all other overdue amounts payable under this Note, shall bear interest payable
33 on demand in the case of (i) overdue principal of or overdue interest on any Loan, at a rate per
34 annum equal to two percent (2%) above the rate then applicable to such Loan, and (ii) any other
35 overdue amounts, at a rate per annum equal to two percent (2%) above the Base Rate, in each
36 case until such amount shall be paid in full (after, as well as before, judgment).

37
38 Each payment of principal, interest or other sum payable on or in respect of this Note or the
39 indebtedness evidenced hereby shall be made by the Borrower directly to the Agent at the
40 Agent's office, as provided in the Agreement, for the account of the Holder, not later than 2:00
41 p.m., New York, New York time, on the due date of such payment. All payments on or in respect
42 of this Note or the indebtedness evidenced hereby shall be made without set-off or counterclaim
43 and free and clear of and without any deduction of any kind for any taxes, levies, fees,
44 deductions withholdings, restrictions or conditions of any nature, except as expressly set forth in
45 *Section 3.09* and *Section 8.02* of the Agreement.

1 Absent manifest error, a certificate or statement signed by an authorized officer of Lender shall
2 be conclusive evidence of the amount of principal due and unpaid under this Note as of the date
3 of such certificate or statement.
4

5 This Note is made and delivered by the Borrower to the Lender pursuant to that certain Term
6 Loan Agreement, dated as of September 30, 2019, among the Borrower, the lenders party thereto,
7 and [REDACTED] as Administrative Agent and Lender (such agreement, as originally
8 executed, or, if varied or supplemented or amended and restated from time to time hereafter, as
9 so varied or supplemented or amended and restated, called the “**Agreement**”). This Note
10 evidences the obligations of Borrower (a) to repay the principal amount of the Loans made by
11 Lender to Borrower under the Agreement, (b) to pay interest, as provided in the Agreement on
12 the principal amount hereof remaining unpaid from time to time, and (c) to pay other amounts
13 which may become due and payable hereunder as provided herein and in the Agreement.
14

15 No reference herein to the Agreement, to any of the Schedules or Exhibits annexed thereto, or to
16 any of the Loan Documents or to any provisions of any thereof, shall impair the obligations of
17 the Borrower, which are absolute, unconditional and irrevocable, to pay the principal of and the
18 interest on this Note and to pay all (if any) other amounts which may become due and payable on
19 or in respect of this Note or the indebtedness evidenced hereby, strictly in accordance with the
20 terms and the tenor of this Note.
21

22 All capitalized terms used herein and defined in the Agreement shall have the same meanings
23 herein as therein. For all purposes of this Note, “**Holder**” means the Lender or any other person
24 who is at the time the lawful holder in possession of this Note.
25

26 Pursuant to, and upon the terms contained in the Agreement, the entire unpaid principal of this
27 Note, all of the interest accrued on the unpaid principal of this Note and all (if any) other
28 amounts payable on or in respect of this Note or the indebtedness evidenced hereby may be
29 declared to be or may automatically become immediately due and payable, whereupon the entire
30 unpaid principal of this Note and all (if any) other amounts payable on or in respect of this Note
31 or the indebtedness evidenced hereby shall (if not already due and payable) forthwith become
32 and be due and payable to the Holder of this Note without presentment, demand, protest, notice
33 of protest or any other formalities of any kind, all of which are hereby expressly and irrevocably
34 waived by the Borrower.
35

36 All computations of interest payable as provided in this Note shall be determined in accordance
37 with the terms of the Agreement.
38

39 Should all or any part of the indebtedness represented by this Note be collected by action at law,
40 or in bankruptcy, insolvency, receivership or other court proceedings, or should this Note be
41 placed in the hands of attorneys for collection after default, the Borrower hereby promises to pay
42 to the Holder of this Note, upon demand by the Holder at any time, in addition to principal,
43 interest and all (if any) other amounts payable on or in respect of this Note or the indebtedness
44 evidenced hereby, all court costs and reasonable attorneys’ fees (including, without limitation,
45 such reasonable fees of any in-house counsel) and all other reasonable collection charges and
46 expenses incurred or sustained by the Holder.
47
48

1 The Borrower hereby irrevocably waives notices of acceptance, presentment, notice of non-
2 payment, protest, notice of protest, suit and all other conditions precedent in connection with the
3 delivery, acceptance, collection and/or enforcement of this Note.
4

5 THE BORROWER HEREBY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO
6 ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH
7 THIS NOTE, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE
8 OF SUCH RIGHTS AND OBLIGATIONS.
9

10 This Note is intended to take effect as a sealed instrument.
11

12 This Note and the obligations of the Borrower hereunder shall be governed by and interpreted
13 and determined in accordance with the laws of the State of New York.
14

15 *[SIGNATURE APPEARS ON THE FOLLOWING PAGE]*
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1 IN WITNESS WHEREOF, this Note has been duly executed by GULF POWER COMPANY, on
2 the day and in the year first above written.
3

4 **GULF POWER COMPANY**
5

6
7
8 By:
9 Paul I. Cutler
10 Treasurer
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45 [Gulf Power Company / BMO – Term Loan Agreement – Signature Page – Note]
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EXIDBIT C TO AGREEMENT

[Form of Interest Rate Notice]

INTEREST RATE NOTICE

[Date]



Ladies and Gentlemen:

Pursuant to *Section 2.06* of that certain Term Loan Agreement, dated as of September 30, 2019 (as amended or modified from time to time, the "Credit Agreement", the terms defined therein as therein defined), among the undersigned, the Lenders party thereto and ' as Administrative Agent and Lender, the BoITower hereby gives you iTevocable notice of its request to Convert the Loan(s) and/or Interest Periods cmTently under effect under the Credit Agreement as follows *[selectfrom thefo llowing as applicable]*:

- on [date], to Convert \$[] of the aggregate outstanding principal amount of the Loan(s) bearing interest at the Eurodollar Rate into a Base Rate Loan; [and/or]
- on [date], to Convert \$[] of the aggregate outstanding principal amount of the Loan(s) bearing interest at the Base Rate into a Eurodollar Rate Loan having an Interest Period of [] month(s) ending on [date]; [and/or]
- on [date], to continue \$[] of the aggregate outstanding principal amount of the Loan(s) bearing interest at the Eurodollar Rate, as a Eurodollar Rate Loan having an Interest Period of [] month(s) ending on [date].

Any capitalized terms used in this notice which are defined in the Credit Agreement have the meanings specified for those terms in the Credit Agreement.

[Signature Appears on Following Page]

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Very truly yours,

GULF POWER COMPANY

By: _____
Name:
Title:

[Gulf Power Company / BMO – Term Loan Agreement – Signature Page – Interest Rate Notice]

1 EXHIBIT D TO AGREEMENT

2
3 Form of Borrower's Certificate

4 * * *

5
6 CERTIFICATE OF

7
8 GULF POWER COMPANY

9
10 September 30, 2019

11
12 This Certificate is given pursuant to that certain Term Loan Agreement between Gulf Power
13 Company (the "**Borrower**") the Lenders party thereto and [REDACTED], as Administrative
14 Agent and Lender (the "**Agent**"), dated as of September 30, 2019 (the "**Credit Agreement**").
15 Each initially capitalized term which is used and not otherwise defined in this Certificate shall
16 have has the meaning specified for such term in the Credit Agreement. This Certificate is
17 delivered in satisfaction of the conditions precedent set forth in *Section 6.01* of the Credit
18 Agreement.

- 19
20 1. The Borrower hereby provides notice to the Agent that September 30, 2019, is
21 hereby deemed to be the Effective Date.
22
23 2. The Borrower hereby certifies to the Agent that as of the Effective Date, except in
24 respect of the matters described in *Schedule 4.04* of the Credit Agreement, there
25 has been no material adverse change in the business or financial condition of any
26 of the Borrower or any of its Subsidiaries taken as a whole from that set forth in
27 the financial statements for the period ended December 31, 2018, referred to in
28 *Section 4.04* of the Credit Agreement. This representation and warranty is made
29 only as of the Effective Date and shall not be deemed made or remade on or as of
30 any subsequent date notwithstanding anything contained in the Credit Agreement,
31 the other Loan Documents or in any document or instrument delivered pursuant to
32 or in connection with the Credit Agreement.
33
34 3. The Borrower hereby further certifies that as of the Effective Date, the
35 representations and warranties of the Borrower contained in the Credit Agreement
36 are true and correct in all material respects (except to the extent that such
37 representations and warranties expressly relate to an earlier date) and there exists
38 no Default.

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41 *[Signature Appears on Next Page]*
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1 EXHIBIT E

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3 FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

4 * * *

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7 ASSIGNMENT AND ASSUMPTION AGREEMENT

8
9 This Assignment and Assumption Agreement (the “**Assignment and Assumption**
10 **Agreement**”) is dated as of the Effective Date set forth below and is entered into by and between
11 the Assignor identified in item 1 below (the “**Assignor**”) and the Assignee identified in item 2
12 below (the “**Assignee**”). Capitalized terms used but not defined herein shall have the meanings
13 given to them in the Credit Agreement identified below (as amended, the “**Credit Agreement**”),
14 receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and
15 Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by
16 reference and made a part of this Assignment and Assumption Agreement as if set forth herein in
17 full.

18
19 For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the
20 Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor,
21 subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement,
22 as of the Effective Date inserted by the Agent as contemplated below (i) all of the Assignor’s
23 rights and obligations in its capacity as a Lender under the Credit Agreement and any other
24 documents or instruments delivered pursuant thereto to the extent related to the amount and
25 percentage interest identified below of all of such outstanding rights and obligations of the
26 Assignor under the respective facilities identified below (including without limitation any letters
27 of credit and guarantees included in such facilities), and (ii) to the extent permitted to be
28 assigned under applicable law, all claims, suits, causes of action and any other right of the
29 Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising
30 under or in connection with the Credit Agreement, any other documents or instruments delivered
31 pursuant thereto or the loan transactions governed thereby or in any way based on or related to
32 any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice
33 claims, statutory claims and all other claims at law or in equity related to the rights and
34 obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and
35 assigned by the Assignor to the Assignee pursuant to clauses (i) and (ii) above being referred to
36 herein collectively as the “**Assigned Interest**”). Each such sale and assignment is without
37 recourse to the Assignor and, except as expressly provided in this Assignment and Assumption
38 Agreement, without representation or warranty by the Assignor.
39

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1. Assignor: _____
[Assignor [is] [is not] a Defaulting Lender]
 2. Assignee: _____
[for each Assignee, indicate [affiliate] of [*identify Lender*]]
 3. Borrower: Gulf Power Company

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4. Agent: [REDACTED] as the administrative agent under the Credit Agreement

5. Credit Agreement: The \$300,000,000 Credit Agreement dated as of September 30, 2019 among Gulf Power Company, Lenders that are parties thereto and [REDACTED] as the Agent

6. Assigned Interest:

Assignor	Assignee	Facility Assigned ¹	Aggregate Amount of Commitment/Loans for all Lenders ²	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment / Loans ³	CUSIP Number
			\$	\$	%	
			\$	\$	%	
			\$	\$	%	

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[7. Trade Date: -]⁴

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¹ Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment

² Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

³ Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder

⁴ To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

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Effective Date: _ 4 _ , 20_ [TO BE INSERTED BY THE AGENT
AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN
THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption Agreement are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]
By:
Title:

ASSIGNEE

[NAME OF ASSIGNEE]
By:
Title:

[Consented to and]5 Accepted:

, as
Agent

By:
Title:

[Consented to:]6

By:
Title:

5 To be added only if the consent of the Agent is required by the terms of the Credit Agreement.
6 To be added only if the consent of the Borrower and/or other parties is required by the terms of the Credit Agreement.

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION AGREEMENT

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption Agreement and to consummate the transactions contemplated hereby and (iv) it [is / is not] a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or affiliates or any other Person obligated in respect of any Loan Document, or (iv) the performance or observance by the Borrower, any of its Subsidiaries or affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption Agreement and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 10.06(b)(iii), (v) and (vi) of the Credit Agreement (subject to such consents, if any, as may be required under Section 10.06(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 6.04 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption Agreement and to purchase the Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption Agreement and to purchase the Assigned Interest, and (vii) if it is organized under the laws of a jurisdiction outside of the United States attached to the Assignment and Assumption Agreement is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the

1 obligations which by the terms of the Loan Documents are required to be performed by it as a
2 Lender.

3
4 2. Payments. From and after the Effective Date, the Agent shall make all payments
5 in respect of the Assigned Interest (including payments of principal, interest, fees and other
6 amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective
7 Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the
8 Agent for periods prior to the Effective Date or with respect to the making of this assignment
9 directly between themselves. Notwithstanding the foregoing, the Administrative Agent shall
10 make all payments of interest, fees or other amounts paid or payable in kind from and after the
11 Effective Date to the Assignee.

12
13 3. General Provisions. This Assignment and Assumption Agreement shall be
14 binding upon, and inure to the benefit of, the parties hereto and their respective successors and
15 assigns. This Assignment and Assumption Agreement may be executed in any number of
16 counterparts, which together shall constitute one instrument. Delivery of an executed counterpart
17 of a signature page of this Assignment and Assumption Agreement by telecopy shall be effective
18 as delivery of a manually executed counterpart of this Assignment and Assumption Agreement.
19 This Assignment and Assumption Agreement shall be governed by, and construed in accordance
20 with, the law of the State of New York.

1 EXHIBIT F TO AGREEMENT

2
3 [Form of Opinion of Borrower's Counsel]
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7 September 30, 2019
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10
11
12 Re: Gulf Power Company US\$300,000,000 Tenn Loan Facility

13 Ladies and Gentlemen:

14 This opinion is furnished to you pursuant to *Section 6.0J(e)* of that certain Tenn Loan
15 Agreement, dated as of September 30, 2019 (the "Credit Agreement"), among GULF POWER
16 COMPANY a Florida corporation (the "BoITower"), the lenders parties thereto from time to
17 time and _____, as Administrative Agent (the "Agent"). This opinion is
18 furnished to you at the request of the BoITower. Capitalized terms defined in the Credit
19 Agreement and not otherwise defined herein have the meanings set forth therein.
20

21 We have acted as special counsel to the BoITower, in connection with the documents
22 described in *Schedule I* attached hereto and made a part hereof (the "Operative Documents").
23

24 We have made such examinations of the federal law of the United States and the laws of
25 the State of Florida and the State of New York as we have deemed relevant for purposes of this
26 opinion, and solely for the purposes of the opinions in paragraph 6, the Public Utility Holding
27 Company Act of 2005 and the Federal Power Act (the Public Utility Holding Company Act of
28 2005 and the Federal Power Act and the rules and regulations issued thereunder being referred
29 to herein as the "Applicable Energy Laws"), and have not made any independent review of the
30 law of any other state or other jurisdiction; provided however, we have made no investigation as
31 to, and we express no opinion with respect to, any securities or blue sky laws, any state or federal
32 tax laws, or any matters relating to the Applicable Energy Laws (except for the purposes of the
33 opinion in paragraph 6), the Public Utility Regulatory Policies Act of 1978, the Energy Policy
34 Act of 2005, or the rules and regulations under any of the foregoing. Additionally, the opinions
35 contained herein shall not be construed as expressing any opinion regarding local statutes,
36 ordinances, administrative decisions, or regarding the rules and regulations of counties, towns,
37 municipalities or special political subdivisions (whether created or enabled through legislative
38 action at the state or regional level), or regarding judicial decisions to the extent they deal with
39 any of the foregoing (collectively, "Excluded Laws"). Subject to the foregoing provisions of this
40 paragraph, the opinions expressed herein are limited solely to the federal law of the United States
41 and the law of the State of Florida and the State of New York insofar as they bear on the matters
42 covered hereby.

1 We have reviewed only the Operative Documents and the other documents and
2 instruments described in Schedule II attached hereto and made a part hereof (together with the
3 Operative Documents, the "Documents") and have made no other investigation or inquiry. We
4 have also relied, without additional investigation, upon the facts set forth in the representations
5 made by the Borrower in the Documents.
6

7 In our examination of the foregoing and in rendering the following opinions, in addition
8 to the assumptions contained elsewhere in this letter, we have, with your consent, assumed
9 without investigation (and we express no opinion regarding the following):
10

11 (a) the genuineness of all signatures (other than signatures of the Borrower on the
12 Operative Documents) and the legal capacity of all individuals who executed Documents
13 individually or on behalf of any of the parties thereto, the accuracy and completeness of each
14 Document submitted for our review, the authenticity of all Documents submitted to us as
15 originals, the conformity to original Documents of all Documents submitted to us as certified or
16 photocopies and the authenticity of the originals of such copies;
17

18 (b) that each of the parties to the Operative Documents (other than the Borrower) is a
19 duly organized or created, validly existing entity in good standing under the laws of the
20 jurisdiction of its organization or creation;
21

22 (c) the due execution and delivery of the Operative Documents by all parties thereto
23 (other than the Borrower);
24

25 (d) that all parties to the Operative Documents (other than the Borrower) have the
26 power and authority to execute and deliver the Operative Documents, as applicable, and to
27 perform their respective obligations under the Operative Documents, as applicable;
28

29 (e) that each of the Operative Documents is the legal, valid and binding obligation of
30 each party thereto (other than the Borrower), enforceable in each case against each such party in
31 accordance with the respective terms of the applicable Operative Documents;
32

33 (f) that the conduct of the parties to the Operative Documents has complied with all
34 applicable requirements of good faith, fair dealing and conscionability;
35

36 (g) that there are no agreements or understandings among the parties, written or oral,
37 and there is no usage of trade or course of prior dealing among the parties that would, in either
38 case, define, supplement or qualify the terms of any of the Operative Documents (except as
39 specifically set forth in the Operative Documents); and
40

41 (h) that none of the addressees of this letter know that the opinions set forth herein
42 are incorrect and there has not been any mutual mistake of fact or misunderstanding, fraud,
43 duress or undue influence relating to the matters which are the subject of our opinions.
44

45 As used in the opinions expressed herein, the phrase "to our knowledge" refers only to
46 the actual current knowledge of those attorneys in our firm who have given substantive attention
47 to the Borrower in connection with the transaction contemplated pursuant to the Credit
48 Agreement (the "Transaction") and does not (i) include constructive notice of matters or

1 information, or (ii) imply that we have undertaken any independent investigation (a) with any
2 persons outside our firm, or (b) as to the accuracy or completeness of any factual representation
3 or other information made or furnished in connection with the Transaction. Furthermore, such
4 reference means only that we do not know of any fact or circumstance contradicting the
5 statement that follows the reference, and does not imply that we know the statement to be correct
6 or have any basis (other than the Documents) for that statement.
7

8 Based solely upon our examination and consideration of the Documents, and in reliance
9 thereon, and in reliance upon the factual representations contained in the Documents, and our
10 consideration of such matters of law and fact as we have considered necessary or appropriate for
11 the expression of the opinions contained herein, and subject to the limitations, qualifications and
12 assumptions expressed herein, we are of the opinion that:
13

14 1. The Borrower is validly existing as a corporation under the laws of the State of
15 Florida and its status is active. The Borrower has the requisite corporate power and authority to
16 execute, deliver and perform the Operative Documents to which it is a party.
17

18 2. The execution, delivery and performance of the Operative Documents entered
19 into by the Borrower have been duly authorized by all necessary corporate action of the
20 Borrower and the Operative Documents to which the Borrower is a party has been duly executed
21 and delivered by the Borrower.
22

23 3. Each of the Operative Documents to which the Borrower is a party constitutes a
24 valid and binding obligation of the Borrower enforceable against the Borrower in accordance
25 with its terms.
26

27 4. The execution and delivery of the Operative Documents to which the Borrower is
28 a party and the consummation by the Borrower of the transactions contemplated in the Operative
29 Documents to which the Borrower is a party will not conflict with or constitute a breach or
30 violation of any of the terms or provisions of, or constitute a default under (A) the Articles of
31 Incorporation of the Borrower, as amended, or the Bylaws, as amended, of the Borrower (B) any
32 existing federal, New York or Florida statute or any rule or regulation thereunder (in each case
33 other than (i) any Excluded Laws, as to which no opinion is expressed and (ii) any Applicable
34 Energy Laws, which are addressed in paragraph 6 below) of any federal, New York or Florida
35 governmental agency or body having jurisdiction over the Borrower, except where the same
36 would not have a material adverse effect on the business, properties or financial condition of the
37 Borrower, a material adverse effect on the ability of the Borrower to perform its obligations
38 under the Operative Documents or a material adverse effect on the validity or enforceability of
39 the Operative Documents, assuming that the aggregate principal amount of the Loans and all
40 other applicable indebtedness, equity securities and all other liabilities and obligations as
41 guarantor, endorser or surety of the Borrower at any one time outstanding would not exceed the
42 limits set forth in the FPSC Financing Order, (C) require any consent, approval, authorization or
43 other order of any federal, New York or Florida court, regulatory body, administrative agency or
44 other federal, New York or Florida governmental body having jurisdiction over the Borrower (in
45 each case other than under (i) any Excluded Laws as to which no opinion is expressed and (ii)
46 any Applicable Energy Laws, which are addressed in paragraph 6 below), except those which
47 have been obtained on or prior to the date hereof and assuming that the aggregate principal

1 amount of the Loans and all other applicable indebtedness, equity securities and all other
2 liabilities and obligations as guarantor, endorser or surety of the Borrower at any one time
3 outstanding would not exceed the limits set forth in the FPSC Financing Order, (D) to our
4 knowledge, conflict with or constitute a breach of any of the terms or provisions of, or a default
5 under, any material agreement or material instrument to which the Borrower is a party or by
6 which the Borrower or its properties are bound, or (E) to our knowledge, result in the creation or
7 imposition of any Lien upon any of the material properties or assets of the Borrower pursuant to
8 the terms of any mortgage, indenture, agreement or instrument to which the Borrower is a party
9 or by which it is bound, except as contemplated in any of the Operative Documents.

10
11 5. The Borrower is not an “investment company”, as such term is defined in the
12 Investment Company Act of 1940.

13
14 6. The execution and delivery of the Operative Documents to which the Borrower is
15 a party and the consummation by the Borrower of the transactions contemplated in the Operative
16 Documents to which the Borrower is a party will not (A) constitute a breach or violation by the
17 Borrower of any Applicable Energy Law, or (B) require any consent, approval, authorization or
18 other order of any U.S. federal regulatory body, administrative agency or other U.S. federal
19 governmental body having jurisdiction over the Borrower pursuant to any Applicable Energy
20 Law.

21
22 The opinions set forth above are subject to the following qualifications:

23
24 A. The enforceability of the Operative Documents may be limited or affected
25 by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance,
26 fraudulent transfer or other laws affecting creditors’ rights generally, considerations of
27 public policy and by general principles of equity including, without limitation, concepts
28 of materiality, reasonableness, good faith and fair dealing and the possible unavailability
29 of specific performance or injunctive relief, regardless of whether considered in a
30 proceeding in equity or at law. Without limiting the generality of the foregoing, we
31 express no opinion concerning:

32
33 (i) any purported waiver of legal rights of the Borrower under any of
34 the Operative Documents, or any purported consent thereunder, relating to the
35 rights of the Borrower (including, without limitation, marshaling of assets,
36 reinstatement and rights of redemption, if any), or duties owing to either of them,
37 existing as a matter of law (including, without limitation, any waiver of any
38 provision of the Uniform Commercial Code in effect in the State of New York
39 and the State of Florida) except to the extent the Borrower may so waive and has
40 effectively so waived (whether in any of the Operative Documents or otherwise);
41 or

42
43 (ii) any provisions in any of the Operative Documents (a) restricting
44 access to legal or equitable redress or otherwise, requiring submission to the
45 jurisdiction of the courts of a particular state where enforcement thereof is
46 deemed to be unreasonable in light of the circumstances or waiving any rights to
47 object to venue or inconvenient forum, (b) providing that any other party’s course

1 of dealing, delay or failure to exercise any right, remedy or option under any of
2 the Operative Documents shall not operate as a waiver, (c) purporting to establish
3 evidentiary standards for suits or proceedings to enforce any of the Operative
4 Documents, (d) allowing any party to declare indebtedness to be due and payable,
5 in any such case without notice, (e) providing for the reimbursement by the
6 non-prevailing party of the prevailing party's legal fees and expenses; (f) with
7 respect to the enforceability of the indemnification provisions in any of the
8 Operative Documents which may be limited by applicable laws or public policy,
9 (g) providing that forum selection clauses are binding on the court or courts in the
10 forum selected, (h) limiting judicial discretion regarding the determination of
11 damages and entitlement to attorneys' fees and other costs, (i) which deny a party
12 who has materially failed to render or offer performance required by any of the
13 Operative Documents the opportunity to cure that failure unless permitting a cure
14 would unreasonably hinder the non-defaulting party from making substitute
15 arrangements for performance or unless it was important in the circumstances to
16 the non-defaulting party that performance occur by the date stated in the
17 agreement, or (j) which purport to waive any right to trial by jury.
18

19 B. The foregoing opinions are subject to applicable laws with respect to
20 statutory limitations of the time periods for bringing actions.
21

22 C. We express no opinion as to the subject matter jurisdiction of any United
23 States federal court to adjudicate any claim relating to any Operative Documents where
24 jurisdiction based on diversity of citizenship under 28 U.S.C. §1332 does not exist.
25

26 This opinion is limited to the matters stated herein and no opinions may be implied or
27 inferred beyond the matters expressly stated herein. We have assumed no obligation to advise
28 you or any other Person who may be permitted to rely on the opinions expressed herein as
29 hereinafter set forth beyond the opinions specifically expressed herein.
30

31 The opinions expressed herein are as of this date, and we assume no obligation to update
32 or supplement our opinions to reflect any facts or circumstances which may come to our
33 attention or any changes in law which may occur.
34

35 This opinion is provided to the addressee for its benefit and the benefit of any Person that
36 becomes a Lender in accordance with the provisions of the Agreement, and is provided only in
37 connection with the Transaction and may not be relied upon in any respect by any other Person
38 or for any other purpose. Without our prior written consent, this opinion letter may not be
39 quoted in whole or in part or otherwise referred to in any document or report and may not be
40 furnished to any Person (other than a Person that becomes a Lender in accordance with the
41 provisions of the Agreement), *provided that*, if requested by regulators having oversight over the
42 addressee, the addressee may furnish copies of this opinion to such regulators so long as such
43 regulators do not rely on this opinion in any respect.

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Very truly yours,

SQUIRE PATTON BOGGS (US) LLP

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SCHEDULE II

TO

OPINION OF SQUIRE PATTON BOGGS (US) LLP

List of Supporting Documents

- (1) Constituent Documents – Gulf Power Company:
 - (a) Certificate of the Secretary of the Borrower, with respect to (i) Articles of Incorporation of the Borrower, as amended, (ii) the Bylaws of the Borrower, as amended, (iii) the active status of the Borrower in the State of Florida, and (iv) the resolutions of the Board of Directors of the Borrower approving the transactions contemplated pursuant to the Operative Documents.
 - (b) Certificate of the Secretary of the Borrower, with respect to the incumbency and specimen signatures of the officers of the Borrower executing the Operative Documents on behalf of the Borrower.
 - (c) Officer’s Certificate of the Borrower made pursuant to the resolutions of the Board of Directors of the Borrower.
- (2) The FPSC Financing Order

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EXHIBIT G-1

U.S. TAX COMPLIANCE CERTIFICATE

**(For Foreign Lenders
That Are Not Partnerships for U.S. Federal Income Tax Purposes)**

Reference is hereby made to that certain Term Loan Agreement, dated as of September 30, 2019 (the "**Credit Agreement**"), between Gulf Power Company (as the "**Borrower**"), the Lenders party thereto and [REDACTED], as Administrative Agent and Lender (the "**Agent**").

Pursuant to the provisions of *Section 3.09* of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Agent and the Borrower, and (2) the undersigned shall have at all times furnished the Agent and the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name:
Title:

Date: _____ 42 , 201[]

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EXHIBIT G-2

U.S. TAX COMPLIANCE CERTIFICATE

**(For Foreign Participants
That Are Not Partnerships for U.S. Federal Income Tax Purposes)**

Reference is hereby made to that certain Term Loan Agreement, dated as of September 30, 2019 (the “**Credit Agreement**”), between Gulf Power Company (as the “**Borrower**”), the Lenders party thereto an [REDACTED], as Administrative Agent and Lender (the “**Agent**”).

Pursuant to the provisions of *Section 3.09* of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____ 201[]

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EXHIBIT G-3

U.S. TAX COMPLIANCE CERTIFICATE

**(For Foreign Participants
That Are Partnerships for U.S. Federal Income Tax Purposes)**

Reference is hereby made to that certain Term Loan Agreement, dated as of September 30, 2019 (the “**Credit Agreement**”), between Gulf Power Company (as the “**Borrower**”), the Lenders party thereto and [REDACTED], as Administrative Agent and Lender (the “**Agent**”).

Pursuant to the provisions of *Section 3.09* of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____ 48 , 201[]

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EXHIBIT G-4

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders
That Are Partnerships for U.S. Federal Income Tax Purposes)

Reference is hereby made to that certain Term Loan Agreement, dated as of September 30, 2019 (the “**Credit Agreement**”), between Gulf Power Company (as the “**Borrower**”), the Lenders party thereto an [REDACTED], as Administrative Agent and Lender (the “**Agent**”).

Pursuant to the provisions of *Section 3.09* of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Agent and the Borrower, and (2) the undersigned shall have at all times furnished the Agent and the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name:
Title:

Date: _____ 48 , 201[]

Exhibit 1 (n)

TERM LOAN AGREEMENT
\$200,000,000 TERM LOAN FACILITY

BETWEEN

GULF POWER COMPANY,

AS BORROWER

AND

[REDACTED],
AS LENDER AND ADMINISTRATIVE AGENT

DATED AS OF DECEMBER 13, 2019

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ARTICLE 1 - DEFINITIONS AND RULES OF INTERPRETATION 1

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**List of Schedules and Exhibits to the
Revolving Credit Agreement**

Schedules:

<u>Schedule I</u>	Applicable Lending Offices and Notice Addresses
<u>Schedule 4.03</u>	Excepted Liens
<u>Schedule 4.04</u>	Supplemental Disclosures
<u>Schedule 4.06</u>	Litigation
<u>Schedule 4.11(c)</u>	ERISA

Exhibits:

<u>Exhibit A</u>	Form of Borrowing Notice
<u>Exhibit B</u>	Form of Note
<u>Exhibit C</u>	Form of Interest Rate Notice
<u>Exhibit D</u>	Form of Borrower's Certificate
<u>Exhibit E</u>	Assignment and Assumption Agreement
<u>Exhibit F</u>	Form of Opinion of Borrower's Counsel
<u>Exhibit G-1</u>	U.S. Tax Compliance Certificate (For Foreign Lenders That Are <u>Not</u> Partnerships for U.S. Federal Income Tax Purposes)
<u>Exhibit G-2</u>	U.S. Tax Compliance Certificate (For Foreign Participants That Are <u>Not</u> Partnerships for U.S. Federal Income Tax Purposes)
<u>Exhibit G-3</u>	U.S. Tax Compliance Certificate (For Foreign Participants That <u>Are</u> Partnerships for U.S. Federal Income Tax Purposes)
<u>Exhibit G-4</u>	U.S. Tax Compliance Certificate (For Foreign Lenders That <u>Are</u> Partnerships for U.S. Federal Income Tax Purposes)

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TERM LOAN AGREEMENT

This TERM LOAN AGREEMENT, dated as of December 13, 2019, is by and among GULF POWER COMPANY, a Florida corporation (the "Borrower"), the lending institutions that are parties hereto as Lenders (as defined below) which as of the date of this Agreement, consist of those Lenders listed on Schedule hereto, and (the "Agent") (the Borrower, the Lenders and the Agent are hereinafter sometimes referred to collectively as the "Parties" and individually as a "Party").

WITNESSETH:

WHEREAS, the Borrower has requested that the Lenders agree to make available to the Borrower a Two Hundred Million United States Dollars (US\$200,000,000) term loan credit facility; and

WHEREAS, the Lenders are willing to do so, on the terms and conditions hereof.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

ARTICLE 1-DEFINITIONS AND RULES OF INTERPRETATION.

Section 1.01. Definitions. The following terms have the respective meanings set forth in this *Section 1.01* or elsewhere in the provisions of this Agreement referred to below:

"Acceleration Notice" has the meaning specified in *Section 7.02*.


35 "Agreement" means this Term Loan Agreement, including the Schedules and Exhibits hereto.

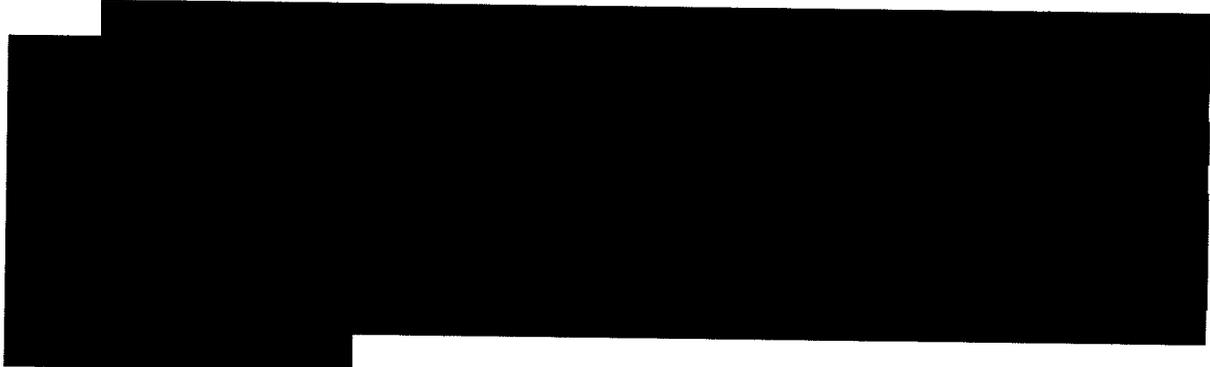
"Anti-Terrorism Law" means any Requirement of Law related to money laundering or financing terrorism or anticorruption laws including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. 107-56) (the "USA PATRIOT Act"), The Currency and Foreign Transactions Reporting Act (31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959) (also known as the "Bank Secrecy Act"), the Trading With the Enemy Act (50 U.S.C. § 1 et seq.) and Executive Order 13224 (effective September 24, 2001) and the Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-1 et seq.).

"Applicable Lending Office" means, in the case of any Lender, such Lender's Domestic Lending Office or Emodollai-Lending Office, as the case may be.

1 "Assignment and Assumption Agreement" has the meaning specified in
2 *Section J0.06(b)*.
3

4 "Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the
5 applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

6 "Bail-In Legislation" means, with respect to any EEA Member Country implementing
7 Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the
8 European Union, the implementing law for such EEA Member Country from time to time which
9 is described in the EU Bail-In Legislation Schedule.
10



11
12 "Base Rate Loan" means all or any portion of any Loan bearing interest calculated by
13 reference to the Base Rate.
14

15 "Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

16 "Borrower" has the meaning given such term in the Preamble.

17 "Borrowing" means the drawing down by the Borrower of a Loan or Loans from the
18 Lenders on any given Borrowing Date.
19

20 "Borrowing Date" means the date on which any Loan is made or is to be made.
21

22 "Business Day" means any day other than (a) Saturday or Sunday, or (b) a day on which
23 banking institutions in New York City, New York are required or authorized to close (provided
24 that no day shall be deemed to be a Business Day with respect to any Eurodollar Rate Loan
25 unless such day is also a Eurodollar Business Day).
26

27 "Borrowing Notice" means a certificate to be provided pursuant to *Section 2.02(a)*, in
28 substantially the form set forth in *Exhibit A*.

29 "Change in Law" means the occurrence, after the Effective Date, of any of the following:
30 (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law,
31 rule, regulation or treaty or in the administration, interpretation, implementation or application
32 thereof by any Governmental Authority or (c) the making or issuance of any request, rule,
33 guideline or directive (whether or not having the force of law) by any Governmental Authority;
34 *provided* that notwithstanding anything herein to the contrary, for the purposes of the increased

1 cost provisions in *Section 3.05*, *Section 3.06* or *Section 3.07*, any changes with respect to capital
2 adequacy or liquidity which result from (i) all requests, rules, guidelines or directives under or
3 issued in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act (the
4 "Dodd-Frank Act") and (ii) all requests, rules, guidelines or directives promulgated by the Bank
5 for International Settlements, the Basel Committee on Banking Supervision (or any successor or
6 similar authority) or the United States of America or foreign regulatory authorities, in each case
7 pursuant to "Basel III" (meaning the comprehensive set of reform measures developed (and
8 designated as "Basel III" in September 2010) by the Basel Committee on Banking Supervision,
9 to strengthen the regulation, supervision and risk management of the banking sector), shall in
10 each case be deemed to be a "Change in Law" as to which a Lender is entitled to compensation
11 to the extent such request, rule, guideline or directive is either (1) enacted, adopted or issued
12 after the Effective Date (but regardless of the date the applicable provision of the Dodd-Frank
13 Act or Basel III to which such request, rule, guideline or directive relates was enacted, adopted
14 or issued) or (2) enacted, adopted or issued prior to the Effective Date but either (A) does not
15 require compliance therewith, or (B) which is not fully implemented until after the Effective
16 Date and which entails increased cost related thereto that cannot be reasonably determined as of
17 the Effective Date.
18

19 [REDACTED]

20 I [REDACTED]

21 II [REDACTED]

22 II [REDACTED]
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32 [REDACTED]



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"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

5

6

"Conversion" or "Convert" means a conversion of all or part of any Loan of one Type into a Loan of another Type pursuant to *Section 2.06* hereof (including any such conversion made as a result of the operation of any other provision hereof).

7

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9

"date of this Agreement" and "date hereof" means December 13, 2019.

10

11

12

"Default" means an Event of Default, or an event that with notice or lapse of time or both would become an Event of Default, or the filing in any court of competent jurisdiction of any petition or application or the commencement of any case or other proceeding referred to in *Section 7.01 (g)* so long as the same remains undismissed or unstayed.

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"Defaulting Lender" means, subject to *Section 3.10(b)*, any Lender that (a) fails to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Agent and the Bonower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Agent, or any other Lender any other amount required to be paid by it hereunder within two (2) Business Days of the date when such payment is due; (b) notifies the Borrower or the Agent in writing that it does not intend to comply with its funding obligations under this Agreement, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied); (c) fails, within three (3) Business Days after written request by the Agent or the Borrower, to confirm in writing to the Agent and to the Bonower that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon the subsequent receipt of such written confirmation by the Agent and the Bonower); or (d) has (or has a direct or indirect parent company that has) become the subject of any Insolvency Proceeding or Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the

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1 enforcement of judgments or writs of attachment on its assets or pennit such Lender (or such
2 Governmental Authority) to reject, repudiate, disavow or disaffom any conctracts or agreements
3 made with such Lender. Any detehmination by the Agent that a Lender is a Defaulting Lender
4 under any one or more of the preceding clauses (a) through (d) shall be conclusive and binding
5 absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to
6 *Section 3.JO(b)*) upon the Agent's delive ly of Notice of such detehmination to the BoITower and
7 each Lender.

8
9 "Dollars" or "\$" means United States dollars.

10
11 "Domestic Lending Office" means, initially, the office of each Lender designated as such
12 in *Schedule I* hereto; thereafter, such other office of such Lender, if any, located within the
13 United States that will be making or maintaining any Base Rate Loan.

14
15 "EEA Financial Institution" means (a) any credit institution or investment fom
16 established in any EEA Member Country which is subject to the supervision of an EEA
17 Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of
18 an institution described in clause (a) of this definition, or (c) any financial institution established
19 in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b)
20 of this definition and is subject to consolidated supervision with its parent.

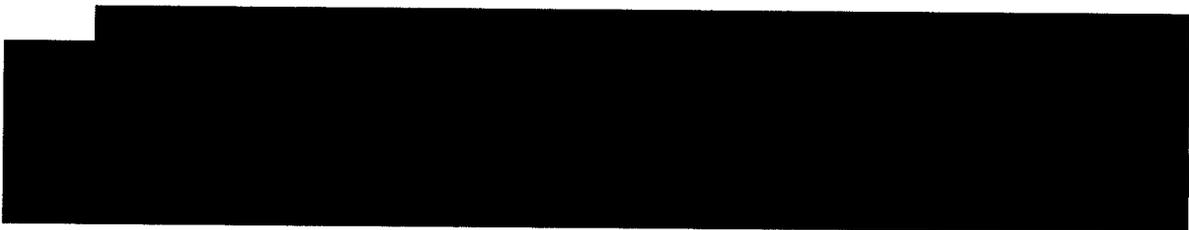
21
22 "EEA Member Country" means any of the member states of the European Union,
23 Iceland, Liechtenstein and No lway.

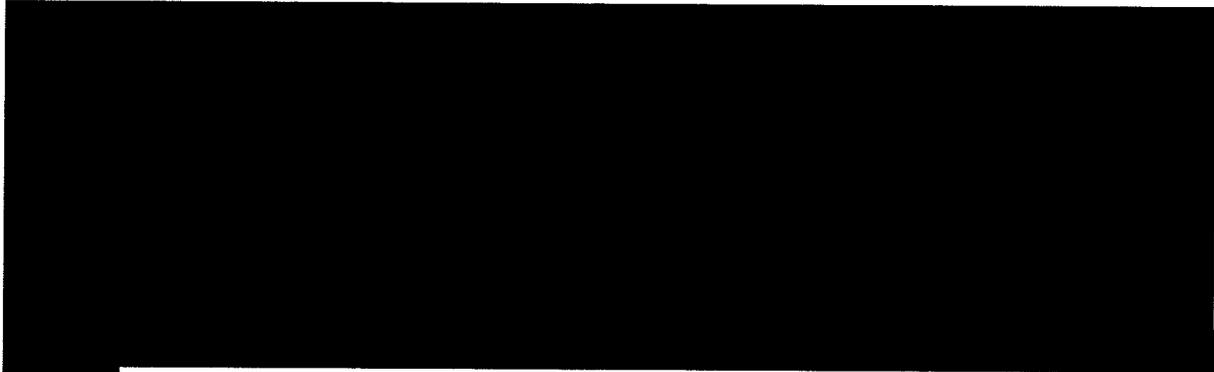
24
25 "EEA Resolution Authority" means any public administrative authority or any Person
26 entmsted with public administrative authority of any EEA Member Countiy (including any
27 delegatee) having responsibility for the resolution of any EEA Financial Institution.

28
29 "Effective Date" means the date on which all of the conditions precedent set fo lth in
30 *Section 6.01* have been satisfied or waived, which is December 13, 2019.

31
32 "Eligible Assignee" means (i) any Lender, (ii) an affiliate of any Lender and (iii) any
33 other Person that is approved by the Agent and, unless an Event of Default has occu lTed and is
34 continuing at the time any such assignment is effected in accordance with the provisions of
35 *Section J 0.06(b)*, the BoITower, such approval not to be unreasonably withheld or delayed;
36 provided however, that neither the BoITower nor any affiliate of the BoITower, nor any
37 Defaulting Lender, shall qualify as an Eligible Assignee .

38
39 "Employee Benefit Plan" means any employee benefit plan within the meaning of
40 Section 3(3) of ERISA maintained or contributed to by the BoITower or any ERISA Affiliate,
41 other than a Multiemployer Plan.





3

4

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

5

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"ERISA Affiliate" means any Person that is treated as a single employer with the Bonower under Section 414 of the Code.

8

9

10

"ERISA Reportable Event" means a reportable event with respect to a Guaranteed Pension Plan within the meaning of Section 4043 of ERISA as to which the requirement of notice has not been waived.

11

12

13

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor Person), as in effect from time to time.

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17

"EurocmTency Reserve Rate" means, for any Interest Period for any Eurodollar Rate Loan, the average maximum rate at which reserves (including, without limitation, any marginal, supplemental or emergency reserves) are required to be maintained during such Interest Period under Regulation D by member banks of the Federal Reserve System in New York City with deposits against "EurocmTency liabilities" (as such term is used in Regulation D) in effect two (2) Eurodollar Business Days before the first day of such Interest Period. Without limiting the effect of the foregoing, the Eurocurrency Reserve Rate shall include any other reserves required to be maintained by such member banks by reason of any Regulatory Change with respect to (i) any category of liabilities that includes deposits by reference to which the Eurodollar Rate is to be determined as provided in the definition of "Eurodollar Rate" in this *Section 1.01* or (ii) any category of extensions of credit or other assets that includes Eurodollar Rate Loans.

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"Eurodollar Business Day" means any Business Day on which commercial banks are open for international business (including dealings in Dollar deposits) in London.

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"Eurodollar Lending Office" means, initially, the office of each Lender designated as such in Schedule I hereto; thereafter, such other office of such Lender, if any, that shall be making or maintaining any Eurodollar Rate Loan.

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36

"Eurodollar Rate" means, for any Interest Period with respect to a Eurodollar Rate Loan, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Reuters LIBOR01 Page (or any successor page, the "LIBO Screen Rate") as the London interbank offered rate for deposits in Dollars ("LIBOR") at approximately 11:00 a.m., London

37

38

39

1 time, two (2) Eurodollar Business Days prior to the first day of such Interest Period for a term
2 comparable to such Interest Period, divided by one (1) minus the Eurocurrency Reserve Rate for
3 such Loan for such Interest Period; *provided* that if the Eurodollar Rate shall be less than zero,
4 such rate shall be deemed to be zero for purposes of this Agreement.
5

6 “Eurodollar Rate Loan” means all or any portion of any Loan bearing interest calculated
7 by reference to the Eurodollar Rate.
8

9 “Event of Default” has the meaning specified in Article 7.
10

11 “Exchange Act” means the Securities Exchange Act of 1934, as amended, and the
12 regulations promulgated thereunder.
13

14 “Excluded Taxes” means any of the following Taxes imposed on or with respect to a
15 Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes
16 imposed on or measured by net income (however denominated), franchise Taxes, and branch
17 profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the
18 laws of, or having its principal office or, in the case of any Lender, its applicable lending office
19 located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are
20 Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on
21 amounts payable to or for the account of such Lender with respect to an applicable interest in a
22 Loan pursuant to a law in effect on the date on which (i) such Lender acquires such interest in
23 such Loan (other than pursuant to an assignment request by the Borrower under *Section 2.08*), or
24 (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to
25 *Section 3.09*, amounts with respect to such Taxes were payable either to such Lender’s assignor
26 immediately before such Lender became a party hereto or to such Lender immediately before it
27 changed its lending office, (c) Taxes attributable to such Recipient’s failure to comply with
28 *Section 3.09(e)*, and (d) any U.S. federal withholding Taxes imposed under FATCA.
29

30 “FASB ASC 715” means Financial Accounting Standards Board Accounting Standards
31 Codification 715, Compensation – Retirement Benefits.
32

33 “FASB ASC 810” means Financial Accounting Standards Board Accounting Standards
34 Codification 810, Consolidation.
35

36 “FATCA” means Sections 1471 through 1474 of the Code, as of the Effective Date (or
37 any amended or successor version that is substantively comparable and not materially more
38 onerous to comply with) and any current or future regulations or official interpretations thereof
39 and any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or
40 regulatory legislation, rules or official practices adopted pursuant to any published
41 intergovernmental agreement entered into in connection with the implementation of such
42 sections of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant
43 to such published intergovernmental agreements.
44

45 “Federal Funds Rate” means, for any day, the rate per annum (rounded upwards, if
46 necessary to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight
47 Federal funds transactions with members of the Federal Reserve System on such day, as
48 published by the Federal Reserve Bank of New York on the Business Day next succeeding such

1 day, provided that (a) if the day for which such rate is to be determined is not a Business Day,
2 the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding
3 Business Day as so published on the next succeeding Business Day and (b) if such rate is not so
4 published for any Business Day, the Federal Funds Rate for such Business Day shall be the
5 average rate charged to the Agent on such Business Day on such transactions as determined by
6 the Agent; *provided* that if the Federal Funds Rate shall be less than zero, such rate shall be
7 deemed to be zero for purposes of this Agreement.
8

9 "Federal Reserve Board" means the Board of Governors of the Federal Reserve System.

10 "Fitch" means Fitch Ratings.

11 "Foreign Lender" means a Lender that is not a U.S. Person.

12
13 "FPSC Financing Order" means the Final Order Granting Modification of Gulf Power's
14 Authority to Issue and Sell Securities and to Receive Common Equity Contributions issued by
15 the Florida Public Service Commission on February 25, 2019, as Order No. PSC-2019-0070-
16 FOF-EI, as modified by Amending Order issued by the Florida Public Service Commission on
17 May 31, 2019 as Order No. PSC-2019-0070A-FOF-EI, and each successive order of the Florida
18 Public Service Commission granting authority to the Borrower to issue and sell securities, as
19 applicable.
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21 [REDACTED]

22 [REDACTED]

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24 [REDACTED]

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"generally accepted accounting principles" means generally accepted accounting principles, as recognized by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board, consistently applied and maintained on a consistent basis for the Bonower and its Subsidiaries throughout the period indicated and (subject to *Section 1.03*) consistent with the prior financial practice of the Bonower and its Subsidiaries.

"Governmental Authority" means, as to any Person, any government (or any political subdivision or jurisdiction thereof), commission, bureau, agency or other governmental authority having jurisdiction over such Person or any of its business, operations or properties.

"Guaranteed Pension Plan" means any employee pension benefit plan within the meaning of Section 3(2) of ERISA that is subject to Title IV of ERISA and that is maintained or contributed to by the Bonower or any ERISA Affiliate or in respect of which the Bonower or any ERISA Affiliate could be reasonably expected to have liability, other than a Multiemployer Plan.

1 “Immediately Available Funds” means funds with good value on the day and in the city
2 in which payment is received.
3

4 “Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with
5 respect to any payment made by or on account of any obligation of the Borrower under any Loan
6 Document and (b) to the extent not otherwise described in the preceding clause (a), Other Taxes.
7

8 “Indemnitee” has the meaning specified in *Section 10.04*.
9

10 “Indemnity Claim” has the meaning specified in *Section 10.04*.
11

12 “Insolvency Proceeding” means, with respect to any Person, (a) any case, action or
13 proceeding with respect to such Person before any competent court or other Governmental
14 Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership,
15 dissolution, administrative receivership, administration, winding-up or relief of debtors, or (b)
16 any general assignment for the benefit of creditors, composition, marshalling of assets for
17 creditors, or other, similar arrangement in respect of its creditors generally or any substantial
18 portion of its creditors, undertaken under any U.S. Federal or state or any foreign law.
19

20 “Interest Payment Date” means (a) as to any Base Rate Loan, the last day of each
21 calendar quarter; (b) as to any Eurodollar Rate Loan in respect of which the Interest Period is (i)
22 three (3) months or less, the last day of such Interest Period and (ii) more than three (3) months,
23 the date that is three (3) months from the first day of such Interest Period and, in addition, the
24 last day of such Interest Period; and (c) as to all Loans, the Maturity Date.
25

26 “Interest Period” means, with respect to any particular Eurodollar Rate Loan, the period
27 which (i) initially commences on either (A) the Borrowing or (B) the date of Conversion of all
28 or any portion of any particular Base Rate Loan into a Eurodollar Rate Loan, as the case may be,
29 and ends one (1), two (2), three (3) or six (6) months thereafter as selected by the Borrower; and
30 (ii) thereafter, each period commencing on the last day of the next preceding Interest Period and
31 ending on the last day of one of the periods set forth above, as selected by the Borrower in an
32 Interest Rate Notice; *provided*, that all of the foregoing provisions relating to Interest Periods are
33 subject to the following:
34

- 35 (a) if any Interest Period would otherwise end on a day that is not a Eurodollar
36 Business Day, then such Interest Period shall end on the next succeeding
37 Eurodollar Business Day unless the next succeeding Eurodollar Business Day
38 falls in another calendar month, in which case such Interest Period shall end on
39 the immediately preceding Eurodollar Business Day;
40
- 41 (b) if the Borrower shall fail to give Notice as provided in *Section 2.06*, the Borrower
42 shall be deemed to have requested a new Eurodollar Rate Loan with an Interest
43 Period of equal duration as the immediately preceding Interest Period;
44
- 45 (c) if any Interest Period begins on the last Eurodollar Business Day of a calendar
46 month (or on a day for which there is no numerically corresponding day in the
47 calendar month at the end of the Interest Period), then the Interest Period shall end

1 on the last Eurodollar Business Day of the calendar month at the end of such
2 futerest Period; and
3

4 (d) no futerest Period shall extend beyond the Maturity Date.
5

6 "futerest Rate Notice" means a Notice given by the Bonower to the Agent (in
7 substantially the foIm set forth in *Exhibit C*) specifying the Bonower's election to ConveIt all or
8 any portion of the Loans, or specifying the futerest Period with respect to all or any portion of
9 any Eurodollar Rate Loans, or to continue the Loans for an additional futerest Period in
10 accordance with *Section 2.06*.
11

12 "Lenders" means each of the lending institutions listed on *Schedule I* hereto so long as
13 such Lender has an Outstanding Loan hereunder and any other Person who becomes an assignee
14 of any rights and obligations of a Lender pursuant to *Section 10.06*.
15

16 "Liabilities" has the meaning specified in *Section 10.04*.
17

18 "LIBOR" has the meaning specified in the definition of Eurodollar Rate.

19 "LIBO Screen Rate" has the meaning specified in the definition of Eurodollar Rate.

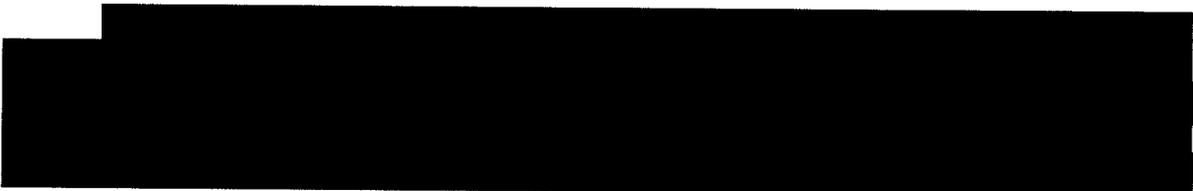
20 "Lien" means any m0ltgage, pledge, lien, security interest or other charge or
21 encumbrance with respect to any present or future assets of the Person refened to in the context
22 in which the tem is used.
23

24 "Loan" means the aggregate principal amount advanced by each Lender as a Loan or
25 Loans to the Borrower under *Section 2.01*.
26

27 "Loan Documents" means this Agreement, any Note or certificate or other document
28 executed and delivered by the Borrower in connection herewith.
29

30 "Loans" means, as applicable, a potion of the Loan that either (a) bears interest by
31 reference to the Base Rate or (b) bears interest by reference to the Eurodollar Rate and has a
32 single futerest Period, which in the case of the preceding clauses (a) and (b), together, constitute
33 the aggregate principal amount of the Loans of all Lenders Outstanding at the time refened to in
34 the context in which the tem is used.
35

36 "Majority Lenders" means Lenders having more than fifty percent (50%) of the aggregate
37 amount of the commitments, or, if the commitments shall have tenninated, Lenders holding more
38 than fifty percent (50%) of the aggregate unpaid principal amount of the Loans; provided that the
39 commitment of any Defaulting Lender shall be excluded for the pmposes of making a
40 determination of Majority Lenders.
41





"Master Agreement" has the meaning specified in the definition of "Swap Contract".

"Maturity Date" means December 13, 2020, unless extended in accordance with *Section 2.08*.

"Maturity Extension Date" has the meaning specified in *Section 2.08*.

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means any multiemployer plan within the meaning of Section 3(37) of ERISA to which the Bonower or any ERISA Affiliate contributes or has an obligation to contribute or has within any of the preceding five plan years contributed or had an obligation to contribute.

"NextEra Energy" means NextEra Energy, Inc., a Florida corporation.

"Non-Defaulting Lenders" means, at any particular time, each Lender that is not a Defaulting Lender at such time.

"Norecourse Indebtedness" has the meaning specified in *Section 5.18(a)*.

"Note" means a promissory note provided for by *Section 2.03(b)*, including (as applicable) all amendments thereto and restatements thereof and all promissory notes delivered in substitution or exchange therefor (including any amended and restated note issued pursuant to this Agreement).

"Notice" has the meaning specified in *Section 10.02*.

"One Month LIBOR" means the ICE Benchmark Administration Settlement Rate applicable to Dollars for a period of one (1) month (for the avoidance of doubt, One Month LIBOR for any day shall be based on the rate appearing on Reuters LIBOR Page (or other commercially available source providing such quotations as designated by the Agent from time to time) at approximately 11:00 a.m London time two (2) Eurodollar Business Days prior to such day); *provided* that if One Month LIBOR shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Taxes" means all present or future stamp, comi or documentaiy, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution,

1 delivery, performance, enforcement or registration of, from the receipt or perfection of a security
2 interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are
3 Other Connection Taxes imposed with respect to an assignment (other than an assignment made
4 pursuant to *Sections 2.08, 3.03 or 3.04*).
5

6 “Outstanding” means, with respect to any Loan, the aggregate unpaid principal amount
7 thereof as of any date of determination.
8

9 “Participant” has the meaning specified in *Section 10.06(d)*.
10

11 “Participant Register” has the meaning specified in *Section 10.06(d)*.
12

13 “Parties” and “Party” have the meanings specified in the Preamble.
14

15 “PBGC” means the Pension Benefit Guaranty Corporation created by Section 4002 of
16 ERISA and any successor entity or entities having similar responsibilities.
17

18 “Person” means any individual, corporation, partnership, trust, unincorporated
19 association, business, or other legal entity, and any government or any governmental agency or
20 political subdivision thereof.
21

22 “Prime Rate” means, for any day, a rate per annum equal to the prime rate of interest
23 announced from time to time by the Agent as its prime lending rate for such day, changing when
24 and as changes to said prime rate are announced.
25

26 “Pro Rata Share” means, in respect of any Lender as of the date of any determination, the
27 proportion which such Lender’s Loans Outstanding bear to the total amount of Loans
28 Outstanding.
29

30 “Rating Agency” means any of Fitch, Moody’s or Standard & Poor’s.
31

32 “Recipient” means the Agent and any Lender.
33

34 “Register” has the meaning specified in *Section 10.06(c)*.
35

36 “Regulations A, D, U and X” means, respectively, Regulations A, D, U and X of the
37 Federal Reserve Board (or any successor).
38

39 “Regulatory Change” means, with respect to any Lender, any change after the date of this
40 Agreement in Federal, state or foreign law or regulations (including, without limitation,
41 Regulation D) or the adoption, making or change in after such date of any interpretation,
42 directive or request applying to a class of banks including such Lender of or under any Federal,
43 state or foreign law or regulations (whether or not having the force of law and whether or not the
44 failure to comply therewith would be unlawful) by any court or governmental or monetary
45 authority charged with the interpretation or administration thereof.

1 "Related Parties" means, with respect to any Person, such Person's affiliates and the
2 partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and
3 representatives of such Person and of such Person's affiliates.
4

5 "Requirement of Law" means, as to any Person, the certificate of incorporation and by-
6 laws or other organizational or governing documents of such Person, and any law (including
7 common law), statute, ordinance, treaty, rule, regulation, order, decree, judgment, writ,
8 injunction, settlement agreement, requirement or determination of an arbitrator or a court or
9 other Governmental Authority, in each case applicable to or binding upon such Person or any of
10 its property or to which such Person or any of its property is subject.
11

12 "Sanctions" means, sanctions administered or enforced by the US Department of the
13 Treasury's Office of Foreign Assets Control (OFAC), US Department of State, United Nations
14 Security Council, European Union, Her Majesty's Treasury, or other relevant sanctions
15 authority.
16

17 "Standard & Poor's" means S&P Global Ratings.
18

19 "Subsidiary" means any corporation, association, trust, or other business entity of which
20 the BolTower (or where the context requires, NextEra Energy) shall at any time own directly or
21 indirectly through a Subsidiary or Subsidiaries at least a majority (by number of votes) of the
22 outstanding Voting Stock.
23

24 "Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit
25 derivative transactions, forward rate transactions, commodity swaps, commodity options,
26 forward commodity contracts, equity or equity index swaps or options, bond or bond price or
27 bond index swaps or options or forward bond or forward bond price or forward bond index
28 transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor
29 transactions, collar transactions, currency swap transactions, cross-currency rate swap
30 transactions, currency options, spot contracts, or any other similar transactions or any
31 combination of any of the foregoing (including any options to enter into any of the foregoing),
32 whether or not any such transaction is governed by or subject to any master agreement, and (b)
33 any and all transactions of any kind, and the related confirmations, which are subject to the terms
34 and conditions of, or governed by, any form of master agreement published by the International
35 Swaps and Derivatives Association, Inc. or any International Foreign Exchange Master
36 Agreement (any such master agreement, together with any related schedules, a "Master
37 Agreement"), including any such obligations or liabilities under any Master Agreement.
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"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholdings), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.



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" "has the meaning specified in *Section 1.02(h)*.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning specified in paragraph (ii) of *Section 3.09(e)*.

"Voting Stock" means stock or similar interest, of any class or classes (however designated), the holders of which are at the time entitled, as such holders, to vote for the election of a majority of the directors (or persons performing similar functions) of the corporation, association, trust or other business entity involved, whether or not the right so to vote exists by reason of the happening of a contingency.

"Withholding Agent" means the Bonower or the Agent.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Section 1.02. Rules of Interpretation.

(a) A reference to any document or agreement shall include such document or agreement, including any schedules or exhibits thereto, as any of same may be amended,

1 modified or supplemented from time to time in accordance with its terms and, if applicable, the
2 terms of this Agreement.

3
4 (b) The singular includes the plural and the plural includes the singular.
5

6 9 (c) A reference to any law includes any amendment or modification to such
7 law.

8
9 14 (d) A reference to any Person includes its permitted successors and permitted
10
11 assigns.
12

13
14 (e) The words “include,” “includes” and “including” are not limiting.
15
16

17
18 (f) Reference to any particular “Article,” “Section,” “Schedule,” “Exhibit,”
19 “Recital” or “Preamble” refers to the corresponding Article, Section, Schedule, Exhibit, Recital
20 or Preamble of this Agreement unless otherwise indicated.
21

22 (g) The words “herein,” “hereof,” “hereunder,” “hereto” and words of like
23 import shall refer to this Agreement as a whole and not to any particular section or subdivision of
24 this Agreement.
25

26 (h) Loans hereunder are distinguished by “Type”. The Type of a Loan refers
27 to whether such Loan is a Base Rate Loan or a Eurodollar Rate Loan, each of which constitutes a
28 Type.
29

30 Section 1.03. Accounting Matters. Except as otherwise expressly provided herein, all
31 terms of an accounting or financial nature shall be construed in accordance with generally
32 accepted accounting principles, as in effect from time to time; provided that, if the Borrower
33 notifies the Agent that the Borrower requests an amendment to any provision hereof to eliminate
34 the effect of any change occurring after the Effective Date in generally accepted accounting
35 principles or in the application thereof on the operation of such provision (or if the Agent notifies
36 the Borrower that the Majority Lenders request an amendment to any provision hereof for such
37 purpose), regardless of whether any such notice is given before or after such change in generally
38 accepted accounting principles or in the application thereof, then (a) such provision shall be
39 interpreted on the basis of generally accepted accounting principles as in effect and applied
40 immediately before such change shall have become effective until such notice shall have been
41 withdrawn or such provision amended in accordance therewith and (b) the Borrower shall
42 provide to the Agent financial statements and other documents required under this Agreement or
43 as reasonably requested hereunder setting forth a reconciliation between calculations made for
44 and after giving effect to such change in generally accepted accounting principles.
45

46 **ARTICLE 2 - LOANS.**

47
48 Section 2.01. Term Loan. Each of the Lenders severally agrees, on the terms of this
49 Agreement (including, without limitation, *Article 6*), to make, simultaneously with the other
50 Lenders, a single loan in Dollars to the Borrower on December 13, 2019 in an amount not to
51 exceed the amount set opposite the name of such Lender on Schedule I, provided that the

1 aggregate principal amount of such Loans shall not exceed Two Hundred Million United States
2 Dollars (US\$200,000,000). Amounts borrowed and repaid or prepaid may not be reborrowed.
3

4 Section 2.02. Notice and Manner of Borrowing; Optional Prepayment.
5

6 (a) The Borrower shall give a Borrowing Notice in substantially the form of
7 Exhibit A (or telephonic notice, promptly confirmed in writing) to the Agent prior to 11:00 a.m.,
8 New York, New York time (i) on the proposed Borrowing Date in the case of a Base Rate Loan
9 and (ii) at least two (2) Eurodollar Business Days prior to the proposed Borrowing Date in the
10 case of a Eurodollar Rate Loan, specifying (A) the Borrowing Date (which shall be a Business
11 Day), (B) whether the requested Borrowing is of a Base Rate Loan or a Eurodollar Rate Loan, or
12 any combination thereof as permitted under the terms of this *Section 2.02*, and the amount of
13 each and (C) in the case of each Eurodollar Rate Loan, the initial Interest Period applicable
14 thereto.
15

16 (b) The Agent shall give written or telephonic notice (confirmed in writing) to
17 each of the Lenders promptly upon receipt of the Borrowing Notice.
18

19 (c) Each of the Lenders shall, not later than noon, New York, New York time,
20 on the Borrowing Date, make immediately available funds in Dollars in the amount of such
21 Lender's Loan available to the Agent at the office of the Agent, by wire transfer at its address set
22 forth in Section 10.02(b). After the Agent's receipt of such funds and upon fulfillment of the
23 applicable conditions set forth in Section 6.01, the Agent will make such funds available to the
24 Borrower by crediting the Borrower's designated account in accordance with the wire
25 instructions included in the Borrowing Notice.
26

27 (d) Any notice delivered or given by the Borrower to the Agent as provided in
28 this *Section 2.02* shall be irrevocable and binding upon the Borrower upon receipt by the Agent.
29 Each Borrowing shall be in the principal amount of [REDACTED] or any integral multiple of
30 [REDACTED] in excess thereof. In no event shall the Borrower select Interest Periods and
31 Types of Loans which would have the result that there shall be more than six (6) different
32 Interest Periods for Loans outstanding at the same time (for which purpose Interest Periods for
33 Loans of different Types shall be deemed to be different Interest Periods even if the Interest
34 Periods begin and end on the same dates).
35

36 (e) The Borrower shall have the right, at any time and from time to time, to
37 prepay the Loans in whole or in part, without penalty or premium, upon not less than three (3)
38 Business Days' prior Notice (or telephonic notice promptly confirmed in writing) given to the
39 Agent not later than 11:00 A.M. (New York City time), in the case of Eurodollar Rate Loans and
40 same day written Notice (or telephonic notice promptly confirmed in writing) to the Agent not
41 later than 11:00 A.M. (New York City time) in the case of Base Rate Loans; *provided* that (i)
42 each prepayment shall be in the principal amount of [REDACTED] or any integral multiple of
43 [REDACTED] in excess thereof, or equal to the remaining principal balance outstanding under
44 such Loan, and (ii) in the event that the Borrower shall prepay any portion of any Eurodollar
45 Rate Loan prior to the last day of the Interest Period relating thereto, the Borrower shall
46 indemnify each of the Lenders in respect of such prepayment in accordance with *Section 3.08*.

1 (f) Unless the Agent shall have received notice from a Lender prior to the
2 time of any Borrowing that such Lender will not make available to the Agent such Lender's
3 ratable portion of such Borrowing, the Agent may assume that such Lender has made such
4 portion available to the Agent on the date of such Borrowing in accordance with Section 2.02(a)
5 and the Agent may, in reliance upon such assumption, make available to the Borrower on such
6 date a corresponding amount. If and to the extent that such Lender shall not have so made such
7 ratable portion available to the Agent, such Lender and the Borrower severally agree to repay to
8 the Agent forthwith on demand such corresponding amount together with interest thereon, for
9 each day from the date such amount is made available to the Borrower until the date such
10 amount is repaid to the Agent, at (i) in the case of the Borrower, the interest rate applicable at the
11 time to Borrowings of such Type and (ii) in the case of such Lender, the Federal Funds Rate. If
12 such Lender shall repay to the Agent such corresponding amount, such amount so repaid shall
13 constitute such Lender's Loan as part of such Borrowing for purposes of this Agreement.
14

15 (g) The failure of any Lender to make any Loan to be made by it on the date
16 specified therefor shall not relieve any other Lender of its obligation to make its Loan on such
17 date, but neither any Lender nor the Agent shall be responsible for the failure of any other
18 Lender to make a Loan to be made by such other Lender.
19

20 Section 2.03. Evidence of Indebtedness.
21

22 (a) The Loans made by each Lender shall be evidenced by one or more
23 accounts or records maintained by such Lender and by the Agent in the ordinary course of
24 business. The accounts or records maintained by the Agent and each Lender shall be conclusive
25 absent manifest error. Any failure to so record or any error in doing so shall not, however, limit
26 or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with
27 respect to its obligations hereunder. In the event of any conflict between the accounts and
28 records maintained by any Lender and the accounts and records of the Agent in respect of such
29 matters, the accounts and records of the Agent shall control in the absence of manifest error.
30

31 (b) If specifically requested by any particular Lender in writing furnished to
32 the Borrower, the Borrower's obligation to pay the principal of, and interest on, the Loans made
33 by such Lender shall be evidenced by a promissory note duly executed and delivered by the
34 Borrower, such Note to be substantially in the form of Exhibit B with blanks appropriately
35 completed in conformity herewith (each, a "Note" and, collectively, the "Notes").
36

37 (c) The Note issued to any Lender shall (i) be payable to the order of such
38 Lender, (ii) be dated as of the Effective Date, (iii) be in a stated maximum principal amount
39 equal to the commitment of such Lender, (iv) mature on the Maturity Date, (v) bear interest as
40 provided in this Agreement, and (vi) be entitled to the benefits of this Agreement and the other
41 Loan Documents.
42

43 (d) Each Lender will advise the Borrower of the outstanding indebtedness
44 hereunder to such Lender upon written request therefor.
45

46 Section 2.04. Mandatory Payment. The Loans will mature on the Maturity Date and the
47 Borrower unconditionally promises to pay to the Agent for account of each Lender the entire

1 unpaid principal amount of such Lender's Loans Outstanding on the Maturity Date plus all
2 accrued and unpaid interest thereon and all other amounts then due hereunder.

3
4 Section 2.05. Interest.
5

6 (a) Each of the Loans shall bear interest at the following rates:

7
8 (i) To the extent that all or any portion of any Loan is a Eurodollar
9 Rate Loan, such Loan or such portion shall bear interest during each applicable Interest
10 Period at a rate per annum equal to the [REDACTED]
11 [REDACTED]

12 (ii) To the extent that all or any portion of any Loan is a Base Rate
13 Loan, such Loan or such portion shall bear interest at a rate per annum equal to the [REDACTED]
14 [REDACTED]

15 (b) The Borrower promises to pay interest on each Loan or any portion
16 thereof Outstanding in arrears on (i) each Interest Payment Date applicable to such Loan and (ii)
17 upon the payment or prepayment thereof or the Conversion thereof to a Loan of another Type
18 (but only on the principal amount so paid, prepaid or Converted).

19
20 (c) After each Loan is made, the Borrower will have the interest rate options
21 described in *Section 2.06* with respect to all or any part of such Loan.

22
23 (d) The Agent shall give prompt Notice to the Borrower of the applicable
24 interest rate determined by the Agent for purposes of clauses (i) or (ii) of *Section 2.05(a)*.

25
26 (e) Overdue principal, and to the extent permitted by applicable law, overdue
27 interest on the Loans and all other overdue amounts payable hereunder or under any Note shall
28 bear interest payable on demand, in the case of (i) overdue principal of or overdue interest on
29 each Loan, at a rate per annum equal to two percent (2%) above the rate then applicable to such
30 Loan and (ii) any other overdue amounts, at a rate per annum equal to two percent (2%) above
31 the Base Rate, in each case until such amount shall be paid in full (after, as well as before,
32 judgment)
33

34 Section 2.06. Interest Rate Conversion or Continuation Options.
35

36 (a) The Borrower may, subject to *Section 2.07*, *Section 3.03* and *Section 3.04*,
37 elect from time to time to Convert all or any portion of any Loan to a Loan of another Type,
38 *provided* that (i) with respect to any such Conversion of all or any portion of any Eurodollar Rate
39 Loan to a Base Rate Loan, the Borrower shall give the Agent an Interest Rate Notice (or
40 telephonic notice promptly confirmed in writing) at least one (1) Business Day prior to such
41 Conversion; (ii) in the event of any Conversion of all or any portion of a Eurodollar Rate Loan
42 into a Base Rate Loan prior to the last day of the Interest Period relating to that Eurodollar Rate
43 Loan, the Borrower shall indemnify each Lender in respect of such Conversion in accordance
44 with *Section 3.08*; (iii) with respect to any such Conversion of all or any portion of a Base Rate
45 Loan to a Eurodollar Rate Loan, the Borrower shall give the Agent an Interest Rate Notice (or
46 telephonic notice promptly confirmed in writing) at least three (3) Eurodollar Business Days
47

1 prior to such election; and (iv) no Loan may be Converted into a Eurodollar Rate Loan when any
2 Default has occurred and is continuing. On the date on which such Conversion is being made,
3 any Lender may take such action, if any, as it deems desirable to transfer its Loan to its Domestic
4 Lending Office or its Eurodollar Lending Office, as the case may be. All or any part of Loans of
5 any Type may be Converted as specified herein; *provided* that partial Conversions shall be in an
6 aggregate principal amount of [REDACTED] or any integral multiple of [REDACTED] in
7 excess thereof. The Agent shall notify the Lenders promptly of each such Interest Rate Notice
8 made by the Borrower. Each Interest Rate Notice relating to the Conversion of all or any portion
9 of any Base Rate Loan to a Eurodollar Rate Loan shall be irrevocable by the Borrower.

10
11 (b) Eurodollar Rate Loans may be continued as such upon the expiration of an
12 Interest Period with respect thereto by compliance by the Borrower with the notice provisions
13 contained in *Section 2.06(a)*; *provided* that no Eurodollar Rate Loan may be continued as such
14 when any Event of Default has occurred and is continuing, but shall be automatically Converted
15 to a Base Rate Loan on the last day of the first Interest Period that ends during the continuance of
16 any Event of Default of which the officers of the Agent active upon the Borrower's account have
17 actual knowledge.

18
19 (c) Any Conversion to or from Eurodollar Rate Loans shall be in such
20 amounts and be made pursuant to such elections so that, after giving effect thereto, the aggregate
21 principal amount of all Eurodollar Rate Loans having the same Interest Period shall not be less
22 than [REDACTED] or any integral multiple of [REDACTED] in excess thereof.

23
24 (d) Except to the extent otherwise expressly provided herein, (i) each
25 Borrowing of Loans from the Lenders hereunder, each Conversion or continuation of all or a
26 portion of any Loan of a particular Type hereunder, and each payment of fees hereunder, shall be
27 effected pro rata among the Lenders in accordance with the amounts of their respective Pro Rata
28 Share and (ii) each payment of interest on Loans by the Borrower shall be made for account of
29 the Lenders pro rata in accordance with the amounts of interest on such Loans then due and
30 payable to the respective Lenders.

31
32 (e) Upon the expiration of any Interest Period, the Borrower shall be deemed
33 to have requested a new Interest Period of equal duration as the immediately preceding Interest
34 Period unless, at least three (3) Business Days prior to said expiration, the Borrower shall have
35 delivered to the Agent an Interest Rate Notice (or telephonic notice promptly confirmed in
36 writing) specifying a new Interest Period of a different duration.

37
38 Section 2.07. Computation of Interest and Fees.
39

40 (a) On the date on which the aggregate unpaid principal amount of Eurodollar Rate
41 Loans comprising any Borrowing shall be reduced, by payment or prepayment or
42 otherwise, to less than [REDACTED], such Loans shall automatically Convert
43 into Base Rate Loans.

44
45 (b) Upon the occurrence and during the continuance of any Event of Default (i) each
46 Eurodollar Rate Loan will automatically, on the last day of the then existing
47 Interest Period therefor, Convert into a Base Rate Loan and (ii) the obligation of

1 the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be
2 suspended.
3

4 Section 2.08. Extension of Maturity Date. The Maturity Date under this Agreement shall
5 be deemed automatically extended without any amendment hereto for an additional six
6 (6) month period, unless at least forty-five (45) days prior to the date that is six (6) months prior
7 to the current Maturity Date (as it may have previously been extended hereunder) (the "Maturity
8 Extension Date"), the Agent provides Notice to the Borrower that the Lenders have elected not to
9 extend the Maturity Date. The Maturity Date shall at no time be later than one year after the
10 Maturity Extension Date.
11

12 Section 2.09. Replacement of Lenders. If (i) any Lender requests compensation under
13 *Section 3.05* or *Section 3.06*, (ii) the Borrower is required to pay any additional amount to any
14 Lender or any Governmental Authority for the account of any Lender pursuant to *Section 3.09*,
15 (iii) any Lender is not able to make or maintain its Loans as a result of any event or circumstance
16 contemplated in *Section 3.04*, (iv) any Lender is a Defaulting Lender, or (v) any Lender fails to
17 consent to an election, consent, amendment, waiver or other modification to this Agreement or
18 any other Loan Document that requires consent of a greater percentage of the Lenders than the
19 Majority Lenders (a "Non-Consenting Lender"), and such election, consent, amendment, waiver
20 or other modification is otherwise consented to by the Majority Lenders, then the Borrower may,
21 at its sole expense and effort, upon Notice to such Lender and the Agent, require such Lender to
22 assign and delegate, without recourse (in accordance with and subject to the restrictions
23 contained in, and consents required by, *Section 10.06*), all of its interests, rights and obligations
24 under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume
25 such obligations (which Eligible Assignee may be another Lender, if such Lender accepts such
26 assignment); *provided that*:

- 27
- 28 (a) any such assignment resulting from a claim against the Borrower for additional
29 compensation pursuant to *Section 3.05* or *Section 3.06* or a requirement that the
30 Borrower pay an additional amount pursuant to *Section 3.09* has the effect of
31 reducing the amount that the Borrower otherwise would have been obligated to
32 pay under those sections;
33
 - 34 (b) no such assignment shall conflict with applicable law;
35
 - 36 (c) the Borrower shall have paid to the Agent the assignment fee specified in *Section*
37 *10.06(b)*;
38
 - 39 (d) in the case of any assignment resulting from a Lender becoming a Non-
40 Consenting Lender, the applicable assignee shall have consented to the applicable
41 amendment, waiver or consent; and
42
 - 43 (e) such Lender shall have received payment of an amount equal to one hundred
44 percent (100%) of the Outstanding amount of its Loans, any accrued and unpaid
45 interest thereon, any accrued and unpaid fees and other accrued and unpaid
46 amounts payable to it hereunder and under the other Loan Documents (including
47 any amounts under *Section 3.08*) from the assignee (to the extent of such

1 Outstanding principal and accrued interest and fees) or the Borrower (in the case
2 of any other accrued and unpaid amounts).
3

4 **ARTICLE 3 - CERTAIN GENERAL PROVISIONS.**
5

6 Section 3.01. Funds for Payments.
7

8 (a) All payments of principal, interest, fees and any other amounts due
9 hereunder or under any of the other Loan Documents shall be made to the Agent, without
10 counterclaim or setoff except as provided in Article 8, at the offices of the Agent, at its address
11 set forth in Schedule I hereto, for the respective accounts of the Lenders, in Immediately
12 Available Funds, not later than 2:00 p.m., New York, New York time, on the due date therefor.
13 Any payment received by the Agent after 2:00 p.m., New York, New York time, shall be deemed
14 to have been received on the next succeeding Business Day. The Agent will promptly thereafter
15 cause to be distributed like funds relating to the payment of principal or interest or fees ratably
16 (other than amounts payable pursuant to *Sections 3.05, 3.06, 3.08, 3.09* and Article 10 to the
17 Lenders for the account of their respective Applicable Lending Offices, and like funds relating to
18 the payment of any other amount payable to any Lender to such Lender for the account of its
19 Applicable Lending Office, in each case to be applied in accordance with the terms of this
20 Agreement; provided that, for the purpose of calculating any Lender's Pro Rata Share of any
21 payment hereunder, payments to each such Lender shall include any amounts set off by the
22 Borrower against such Lender pursuant to *Section 8.02*.
23

24 (b) Unless the Agent shall have received Notice from the Borrower prior to
25 the date on which any payment is due to the Lenders that the Borrower will not make such
26 payment in full, the Agent may assume that the Borrower has made such payment in full to the
27 Agent on such date and the Agent may, in reliance upon such assumption, cause to be distributed
28 to each Lender on such due date an amount equal to the amount then due such Lender. If and to
29 the extent the Borrower shall not have so made such payment in full to the Agent or each Lender,
30 as the case may be, the Borrower shall repay to the Agent forthwith on demand such amount
31 distributed to such Lender, together with interest thereon, for each day from the date such
32 amount is distributed to such Lender until the date such Lender, repays such amount to the
33 Agent, at the Federal Funds Rate.
34

35 Section 3.02. Computations. All computations of interest based on the Prime Rate shall
36 be made by the Agent on the basis of a year of 365 or 366 days, as the case may be, and all
37 computations of interest based on the Eurodollar Rate or the Federal Funds Rate and of fees shall
38 be made by the Agent on the basis of a year of 360 days, in each case for the actual number of
39 days (including the first day but excluding the last day) occurring in the period for which such
40 interest or fees are payable. Except as otherwise provided in the definition of the term "Interest
41 Period" with respect to any Eurodollar Rate Loan, whenever a payment hereunder or under any
42 of the other Loan Documents becomes due on a day that is not a Business Day, the due date for
43 such payment shall be extended to the next succeeding Business Day, and interest on any
44 principal so extended shall accrue during such extension.
45

46 Section 3.03. Inability to Determine Eurodollar Rate. (a) In the event, prior to the
47 commencement of any Interest Period relating to any Eurodollar Rate Loans, the Agent shall

1 determine or be notified by the Majority Lenders that adequate and reasonable methods do not
2 exist for ascertaining the Eurodollar Rate that would otherwise determine the rate of interest to
3 be applicable to any Eurodollar Rate Loan, or that the Eurodollar Rate will not adequately reflect
4 the cost to the Majority Lenders of making, funding or maintaining their Eurodollar Rate Loans,
5 during any Interest Period, the Agent shall forthwith give Notice of such determination (which
6 shall be conclusive and binding on the Borrower and the Lenders) to the Borrower and the
7 Lenders. In such event (i) any Interest Rate Notice with respect to Eurodollar Rate Loans shall
8 be automatically withdrawn and any Interest Rate Notice shall be deemed to be a request for a
9 Base Rate Loan, (ii) each Eurodollar Rate Loan will automatically, on the last day of the then
10 current Interest Period thereof, become a Base Rate Loan, and (iii) the obligations of the Lenders
11 to make Eurodollar Rate Loans shall be suspended until the Agent or the Majority Lenders
12 determine that the circumstances giving rise to such suspension no longer exist, whereupon the
13 Agent or the Agent upon the instruction of the Majority Lenders, shall so notify the Borrower
14 and the Lenders.
15

16 (b) If at any time the Agent determines (which determination shall be
17 conclusive absent manifest error) that (i) that adequate and reasonable methods do not exist for
18 ascertaining the Eurodollar Rate that would otherwise determine the rate of interest to be
19 applicable to any Eurodollar Rate Loan and such circumstance is unlikely to be temporary or (ii)
20 any of (w) the supervisor for the administrator of the LIBO Screen Rate has made a public
21 statement that the administrator of the LIBO Screen Rate is insolvent (and there is no successor
22 administrator that will continue publication of the LIBO Screen Rate), (x) the administrator of
23 the LIBO Screen Rate has made a public statement identifying a specific date after which the
24 LIBO Screen Rate will permanently or indefinitely cease to be published by it (and there is no
25 successor administrator that will continue publication of the LIBO Screen Rate), (y) the
26 supervisor for the administrator of the LIBO Screen Rate has made a public statement identifying
27 a specific date after which the LIBO Screen Rate will permanently or indefinitely cease to be
28 published or (z) the supervisor for the administrator of the LIBO Screen Rate or a Governmental
29 Authority having jurisdiction over the Agent has made a public statement identifying a specific
30 date after which the LIBO Screen Rate may no longer be used for determining interest rates for
31 loans, then the Agent and the Borrower shall endeavor to establish an alternate rate of interest to
32 the LIBO Rate that gives due consideration to the then prevailing market convention for
33 determining a rate of interest for syndicated loans in the United States at such time, and shall
34 enter into an amendment to this Agreement to reflect such alternate rate of interest and such
35 other related changes to this Agreement as may be applicable (but for the avoidance of doubt,
36 such related changes shall not include a reduction of the applicable margin set forth in Section
37 2.05(a)(i)); provided that, if such alternate rate of interest as so determined would be less than
38 zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding
39 anything to the contrary in Section 10.01, such amendment shall become effective without any
40 further action or consent of any other party to this Agreement so long as the Agent shall not have
41 received, within five Business Days of the date such amendment is provided to the Lenders, a
42 written notice from the Majority Lenders stating that such Majority Lenders object to such
43 amendment. Until an alternate rate of interest shall be determined in accordance with this clause
44 (b) (but, in the case of the circumstances described in clause (ii)(w), clause (ii)(x) or clause
45 (ii)(y) of the first sentence of this Section 3.04(b), only to the extent the LIBO Screen Rate for
46 such Interest Period is not available or published at such time on a current basis), (x) any Interest
47 Rate Notice that requests the conversion of any Borrowing to, or continuation of any Borrowing

1 as, a Eurodollar Borrowing shall be ineffective and (y) if any Borrowing Notice requests a
2 Eurodollar Borrowing, such Borrowing shall be made as a Base Rate Borrowing.
3

4 Section 3.04. Illegality. Notwithstanding any other provisions herein, if any present or
5 future law, regulation, treaty or directive or in the interpretation or application thereof shall make
6 it unlawful for any Lender to make or maintain any Eurodollar Rate Loan, such Lender shall
7 promptly give Notice of such circumstances to the Borrower and the other Lenders and
8 thereupon (a) the commitment of such Lender to make any Loan as a Eurodollar Rate Loan or
9 Convert any portion of the Loans of another Type to a Eurodollar Rate Loan shall automatically
10 be suspended, and (b) such Lender's portion of the Loans then outstanding as Eurodollar Rate
11 Loans, if any, shall be Converted automatically to Base Rate Loans on the last day of each
12 Interest Period applicable to each such Eurodollar Rate Loan or within such earlier period as may
13 be required by law. Notwithstanding anything contained in this *Section 3.04* to the contrary, in
14 the event that any Lender is unable to make or maintain any Loan as a Eurodollar Rate Loan as
15 set forth in this *Section 3.04*, such Lender agrees to use reasonable efforts (consistent with its
16 internal policy and legal and regulatory restrictions) to designate an alternative Eurodollar
17 Lending Office so as to avoid such inability.
18

19 Section 3.05. Additional Costs. If any Change in Law:
20

21 (a) imposes, increases or renders applicable (other than to the extent
22 specifically provided for elsewhere in this Agreement) any special deposit, reserve, assessment,
23 liquidity, capital adequacy or other similar requirements (whether or not having the force of law)
24 against assets held by, or deposits in or for the account of, or loans by, or commitments of an
25 office of any Lender, or
26

27 (b) imposes on any Lender or the Agent any other conditions or requirements
28 with respect to this Agreement, the other Loan Documents, or any Loan or the commitment of
29 such Lender hereunder,
30

31 (c) and the foregoing has the result of:
32

33 (i) increasing the cost or reducing the return to any Lender of making,
34 funding, issuing, renewing, extending or maintaining any Loan as a Eurodollar Rate Loan
35 or maintaining its commitment, or
36

37 (ii) reducing the amount of principal, interest or other amount payable
38 to such Lender hereunder on account of any Loan being a Eurodollar Rate Loan, or
39

40 (iii) requiring such Lender to make any payment or to forego any
41 interest or other sum payable hereunder, the amount of which payment or foregone
42 interest or other sum is calculated by reference to the gross amount of any sum receivable
43 or deemed received by such Lender from the Borrower hereunder,
44

45 then, and in each such case, the Borrower will, upon demand made by such Lender at any time
46 and from time to time and as often as the occasion therefor may arise, pay to such Lender such
47 additional amounts as will be sufficient to compensate such Lender for such additional cost,
48 reduction, payment or foregone interest or other sum. Notwithstanding anything contained in
49

1 this *Section 3.05* to the contrary, upon the occurrence of any event set forth in this *Section 3.05*
2 with respect to any Lender, such affected Lender agrees to use reasonable efforts (consistent with
3 its internal policy and legal and regulatory restrictions) to designate an alternative Applicable
4 Lending Office so as to avoid the effect of such event set forth in this *Section 3.05*.
5

6 Section 3.06. Capital Adequacy. If any Change in Law affects the amount of capital or
7 liquidity required or expected to be maintained by any Lender or any corporation controlling
8 such Lender due to the existence of the Loans, and such Lender determines that the result of the
9 foregoing is to increase the cost or reduce the return to such Lender of making or maintaining
10 such Loans, then such Lender may notify the Borrower of such fact. To the extent that the costs
11 of such increased capital or liquidity requirements are not reflected in the Base Rate and/or the
12 Eurodollar Rate, the Borrower and such Lender shall thereafter attempt to negotiate in good
13 faith, within thirty (30) days of the day on which the Borrower receives such Notice, an
14 adjustment payable hereunder that will adequately compensate such Lender in light of these
15 circumstances, and in connection therewith, such Lender will provide to the Borrower reasonably
16 detailed information regarding the increase of such Lender's costs. If the Borrower and such
17 Lender are unable to agree to such adjustment within thirty (30) days of the date on which the
18 Borrower receives such Notice, then commencing on the date of such Notice (but not earlier than
19 the effective date of any such increased capital or liquidity requirement), the interest payable
20 hereunder shall increase by an amount that will, in such Lender's reasonable determination,
21 provide adequate compensation. Each Lender agrees that amounts claimed pursuant to this
22 *Section 3.06* shall be made in good faith and on an equitable basis.
23

24 Section 3.07. Recovery of Additional Compensation.
25

26 (a) Certificate. If any Lender claims any additional amounts pursuant to
27 *Section 3.05*, *Section 3.06* or *Section 3.08*, as the case may be, it shall provide to the Agent and
28 the Borrower a certificate setting forth such additional amounts payable pursuant to *Section 3.06*,
29 *Section 3.07* or *Section 3.09*, as the case may be, and a reasonable explanation of such amounts
30 which are due (*provided that*, without limiting the requirement that reasonable detail be
31 furnished, nothing herein shall require such Lender to disclose confidential information relating
32 to the organization of its affairs). Such certificate shall be conclusive, absent manifest error, that
33 such amounts are due and owing.
34

35 (b) Delay in Requests. Delay on the part of any Lender to demand
36 compensation pursuant to *Section 3.05*, *Section 3.06* or *Section 3.08*, as applicable, shall not
37 constitute a waiver of such Lender's right to demand such compensation; *provided that* the
38 Borrower shall not be required to compensate such Lender for any increased costs incurred or
39 reductions in returns suffered more than ninety (90) days prior to the date such Lender notifies
40 the Borrower of the Change in Law giving rise to such increased costs or reductions in return,
41 and of such Lender's intention to claim compensation therefor (except that, if the Change in Law
42 giving rise to such increased costs or reductions is retroactive, then the ninety (90) day period
43 referred to above shall be extended to include the period of retroactive effect thereof).
44

45 Section 3.08. Indemnity. The Borrower agrees to indemnify each Lender and to hold
46 each Lender harmless from and against any loss, cost or expense (including any such loss or
47 expense arising from interest or fees payable by such Lender to lenders of funds obtained by it in

1 order to maintain any Loan as a Eurodollar Rate Loan) that such Lender may sustain or incur as a
2 consequence of (a) default by the Borrower in payment of the principal amount of or any interest
3 on any Eurodollar Rate Loan as and when due and payable, (b) default by the Borrower in
4 making a prepayment after the Borrower has given a Notice of prepayment pursuant to *Section*
5 *2.02(e)*, (c) default by the Borrower in making a Borrowing after the Borrower has given a
6 Borrowing Notice pursuant to *Section 2.02* or continuing all or any portion of the Loans, after
7 the Borrower has given (or is deemed to have given) pursuant to *Section 2.06(e)* an Interest Rate
8 Notice, (d) the making of any payment of principal of a Eurodollar Rate Loan or any Conversion
9 of any such Eurodollar Rate Loan to a Base Rate Loan on a day that is not the last day of an
10 Interest Period, including interest or fees payable by such Lender to lenders or funds obtained by
11 it in order to maintain any such Eurodollar Rate Loans or (e) the assignment of any Eurodollar
12 Rate Loan prior to the last day of the Interest Period applicable thereto as a result of a request by
13 the Borrower pursuant to *Section 2.08*.

14
15 Section 3.09. Taxes.

16
17 (a) Payments Free of Taxes. Any and all payments by or on account of any
18 obligation of the Borrower under any Loan Document shall be made without deduction or
19 withholding for any Taxes, except as required by applicable law. If any applicable law (as
20 determined in the good faith discretion of an applicable Withholding Agent) requires the
21 deduction or withholding of any Tax from any such payment by such Withholding Agent, then
22 the applicable Withholding Agent shall be entitled to make such deduction or withholding and
23 shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in
24 accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by
25 the Borrower shall be increased as necessary so that after such deduction or withholding has
26 been made (including such deductions and withholdings applicable to additional sums payable
27 under this *Section 3.09*) the applicable Recipient receives an amount equal to the sum it would
28 have received had no such deduction or withholding been made.

29
30 (b) Payment of Other Taxes by Borrower. The Borrower shall timely pay to
31 the relevant Governmental Authority in accordance with applicable law, or at the option of the
32 Agent timely reimburse it for the payment of, any Other Taxes.

33
34 (c) Indemnification

35
36 (i) Indemnification by Borrower. The Borrower shall indemnify each
37 Recipient, within thirty (30) days after demand therefor, for the full amount of any
38 Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable
39 to amounts payable under this Section) payable or paid by such Recipient or required to
40 be withheld or deducted from a payment to such Recipient and any reasonable expenses
41 arising therefrom or with respect thereto, whether or not such Indemnified Taxes were
42 correctly or legally imposed or asserted by the relevant Governmental Authority. A
43 certificate as to the amount of such payment or liability delivered to the Borrower by a
44 Lender (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a
45 Lender, shall be conclusive absent manifest error.

1 (ii) Indemnification by the Lenders. Each Lender shall severally
2 indemnify the Agent, within ten (10) days after demand therefor, for (i) any Indemnified
3 Taxes attributable to such Lender (but only to the extent that the Borrower has not
4 already indemnified the Agent for such Indemnified Taxes and without limiting the
5 obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure
6 to comply with the provisions of *Section 10.06* relating to the maintenance of a
7 Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each
8 case, that are payable or paid by the Agent in connection with any Loan Document, and
9 any reasonable expenses arising therefrom or with respect thereto, whether or not such
10 Taxes were correctly or legally imposed or asserted by the relevant Governmental
11 Authority. A certificate as to the amount of such payment or liability delivered to any
12 Lender by the Agent shall be conclusive absent manifest error. Each Lender hereby
13 authorizes the Agent to set off and apply any and all amounts at any time owing to such
14 Lender under any Loan Document or otherwise payable by the Agent to such Lender
15 from any other source against any amount due to the Agent under this *Section 3.09(c)(ii)*.
16

17 (d) Evidence of Payments. Within thirty (30) days after any payment of
18 Taxes by the Borrower to a Governmental Authority pursuant to this *Section 3.09*, the Borrower
19 shall deliver to the Agent the original or a certified copy of a receipt issued by such
20 Governmental Authority evidencing such payment, a copy of the return reporting such payment
21 or other evidence of such payment reasonably satisfactory to the Agent.
22

23 (e) Status of Lenders.
24

25 (i) Any Lender that is entitled to an exemption from or reduction of
26 withholding Tax with respect to payments made under any Loan Document, shall deliver
27 to the Borrower and the Agent, at the time or times reasonably requested by the Borrower
28 or the Agent, such properly completed and executed documentation reasonably requested
29 by the Borrower or the Agent as will permit such payments to be made without
30 withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably
31 requested by the Borrower or the Agent shall deliver such other documentation
32 prescribed by applicable law or reasonably requested by the Borrower or the Agent as
33 will enable the Borrower or the Agent to determine whether or not such Lender is subject
34 to backup withholding or information reporting requirements. Notwithstanding anything
35 to the contrary in the preceding two sentences, the completion, execution and submission
36 of such documentation (other than such documentation set forth in *Section 3.09(e)(ii)(1)*,
37 *(ii)(2)* and *(ii)(4)* below) shall not be required if in such Lender's reasonable judgment
38 such completion, execution or submission would subject such Lender to any material
39 unreimbursed cost or expense or would materially prejudice the legal or commercial
40 position of such Lender.
41

42 (ii) Without limiting the generality of the foregoing,
43

44 (1) any Lender that is a U.S. Person shall deliver to the
45 Borrower and the Agent on or prior to the date on which
46 such Lender becomes a Lender under this Agreement (and
47 from time to time thereafter upon the reasonable request of

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the Borrower or the Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(2) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Agent (in such number of copies as shall be requested by the Recipient on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), whichever of the following is applicable:

(A) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States of America is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(B) executed originals of IRS Form W-8ECI;

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of *Exhibit G-1* to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed originals of IRS Form W-8BEN-E (or W-8BEN, as applicable); or

(D) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form

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W-8BEN-E (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-2 or Exhibit G-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided* that if such Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner;

- (3) any Foreign Lender, shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Agent to determine the withholding or deduction required to be made; and

- (4) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Agent as may be necessary for the Borrower and the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (4), "FATCA" shall include any amendments to FATCA made after the Effective Date.

1 Each Lender agrees that if any form or certification it previously delivered
2 expires or becomes obsolete or inaccurate in any respect, it shall update
3 such form or certification or promptly notify the Borrower and the Agent
4 in writing of its legal inability to do so.
5

6 (f) Treatment of Certain Refunds. If any Party determines, in its sole
7 discretion exercised in good faith, that it has received a refund of any Taxes as to which it has
8 been indemnified pursuant to this *Section 3.09* (including by the payment of additional amounts
9 pursuant to this *Section 3.09*), it shall pay to the indemnifying party an amount equal to such
10 refund (but only to the extent of indemnity payments made under this *Section 3.09* with respect
11 to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of
12 such indemnified party and without interest (other than any interest paid by the relevant
13 Governmental Authority with respect to such refund). Such indemnifying party, upon the
14 request of such indemnified party, shall repay to such indemnified party the amount paid over
15 pursuant to this *Section 3.09(f)* (plus any penalties, interest or other charges imposed by the
16 relevant Governmental Authority) in the event that such indemnified party is required to repay
17 such refund to such Governmental Authority. Notwithstanding anything to the contrary in this
18 *Section 3.09(f)*, in no event will the indemnified party be required to pay any amount to an
19 indemnifying party pursuant to this *Section 3.09(f)* the payment of which would place the
20 indemnified party in a less favorable net after-Tax position than the indemnified party would
21 have been in if the indemnification payments or additional amounts giving rise to such refund
22 had never been paid. This *Section 3.09(f)* shall not be construed to require any indemnified
23 party to make available its Tax returns (or any other information relating to its Taxes that it
24 deems confidential) to the indemnifying party or any other Person.
25

26 Section 3.10. Defaulting Lenders; Cure.
27

28 (a) Defaulting Lender Waterfall. Any payment of principal, interest, fees or
29 other amounts received by the Agent for the account of any Defaulting Lender (whether
30 voluntary or mandatory, at maturity, pursuant to *Article 7* or otherwise), or received by the
31 Agent from a Defaulting Lender by exercise of right of set-off, shall be applied at such time or
32 times as may be determined by the Agent as follows: *first*, to the payment of any amounts
33 owing by such Defaulting Lender to the Agent hereunder; *second*, as the Borrower may request
34 (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting
35 Lender has failed to fund its portion thereof as required by this Agreement, as determined by the
36 Agent; *third*, if so agreed by the Agent and the Borrower, to be held in a deposit account and
37 released pro rata in order to satisfy such Defaulting Lender's potential future funding
38 obligations with respect to Loans under this Agreement; *fourth*, to the payment of any amounts
39 owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained
40 by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of
41 its obligations under this Agreement; *fifth*, so long as no Default exists, to the payment of any
42 amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction
43 obtained by the Borrower against such Defaulting Lender as a result of such Defaulting
44 Lender's breach of its obligations under this Agreement; and *sixth*, to such Defaulting Lender or
45 as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a
46 payment of the principal amount of any Loans in respect of which such Defaulting Lender has
47 not fully funded its appropriate share, and (y) such Loans were made at a time when the

1 conditions set forth in *Section 6.01*, were satisfied or waived, such payment shall be applied
2 solely to pay the Loans of all Non-Defaulting Lenders on a pro rata basis prior to being applied
3 to the payment of any Loans of such Defaulting Lender. Any payments, prepayments or other
4 amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed
5 by a Defaulting Lender or to post cash collateral pursuant to this *Section 3.10(a)* shall be
6 deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents
7 hereto (and the amounts thus applied or held shall discharge any corresponding obligations of
8 the Borrower relating thereto).
9

10 (b) Defaulting Lender Cure. If the Borrower and the Agent agree in writing
11 that a Lender is no longer a Defaulting Lender, the Agent will so notify the Parties, whereupon
12 as of the effective date specified in such Notice and subject to any conditions set forth therein
13 (which may include arrangements with respect to any cash collateral or other acceptable credit
14 support), that Lender will, to the extent applicable, purchase at par that portion of outstanding
15 Loans of the other Lenders or take such other actions as the Agent may determine to be
16 necessary to cause the Loans to be held pro rata by the Lenders, whereupon such Lender will
17 cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with
18 respect to fees accrued or payments made by or on behalf of the Borrower while that Lender
19 was a Defaulting Lender; and *provided, further*, that except to the extent otherwise expressly
20 agreed by the affected Parties, no change hereunder from Defaulting Lender to Lender will
21 constitute a waiver or release of any claim of any Party arising from that Lender having been a
22 Defaulting Lender.
23

24 (c) Effect on Other Obligations. No commitment of any Lender shall
25 be increased or otherwise affected, and except as otherwise expressly provided in this *Section*
26 *3.10*, performance by the Borrower of its obligations hereunder shall not be excused or otherwise
27 modified as a result of the operation of this *Section 3.10*. The rights and remedies against a
28 Defaulting Lender under this *Section 3.10* are in addition to any other rights and remedies which
29 the Borrower, the Agent or any Lender may have against such Defaulting Lender.
30

31 **ARTICLE 4 - REPRESENTATIONS AND WARRANTIES.**

32

33 The Borrower represents and warrants to the Lenders and the Agent as follows:

34 Section 4.01. Corporate Authority.

35 (a) Incorporation; Good Standing. The Borrower (i) is a corporation duly
36 organized, validly existing and in good standing under the laws of the State of Florida, (ii) has all
37 requisite corporate power to own its property and conduct its business as now conducted, and
38 (iii) is in good standing as a foreign corporation and is duly authorized to do business in each
39 jurisdiction where such qualification is necessary except where a failure to be so qualified would
40 not have a material adverse effect on the business, assets or financial condition of the Borrower
41 and its Subsidiaries, taken as a whole.
42

43 (b) Authorization. The execution, delivery and performance of this
44 Agreement, the other Loan Documents to which the Borrower is or is to become a party and the
45 transactions contemplated hereby and thereby (i) are within the corporate authority of the

1 Borrower, (ii) have been duly authorized by all necessary corporate proceedings, (iii) do not
2 conflict with or result in any breach or contravention of any provision of any law, statute, rule or
3 regulation to which the Borrower is subject or any material judgment, order, writ, injunction,
4 license or permit applicable to the Borrower, except where any such conflict, breach, or
5 contravention would not have a material adverse effect on the business, properties or financial
6 condition of the Borrower and its Subsidiaries, taken as a whole, a material adverse effect on the
7 ability of the Borrower to perform its obligations under the Loan Documents or a material
8 adverse effect on the validity or enforceability of the Loan Documents, it being understood that
9 the aggregate principal amount of the Loans and all other applicable indebtedness, equity
10 securities and all other liabilities and obligations as guarantor, endorser or surety of the Borrower
11 at any one time outstanding will not exceed the applicable limits authorized by the FPSC
12 Financing Order, and (iv) do not conflict with any provision of the corporate charter, as
13 amended, or bylaws, as amended, of, or any material agreement or other material instrument
14 binding upon, the Borrower it being understood that the aggregate principal amount of the Loans
15 and all other applicable indebtedness, equity securities and all other liabilities and obligations as
16 guarantor, endorser or surety of the Borrower at any one time outstanding will not exceed the
17 applicable limits authorized by the FPSC Financing Order. This Agreement and each other Loan
18 Document to which the Borrower is a party have been duly executed and delivered by the
19 Borrower.
20

21 (c) Enforceability. The execution and delivery by the Borrower of this
22 Agreement and the other Loan Documents will result in valid and legally binding obligations of
23 the Borrower, enforceable against it in accordance with the respective terms and provisions
24 hereof and thereof, except as enforceability is limited by bankruptcy, insolvency, reorganization,
25 receivership, moratorium or other laws affecting creditors' rights and remedies generally and
26 general principles of equity.
27

28 Section 4.02. Governmental Approvals. The execution and delivery by the Borrower of
29 this Agreement and the other Loan Documents, and the performance by it of its obligations
30 thereunder, do not require the approval or consent of, or filing with, any Governmental
31 Authority, except those which have been obtained on or prior to the date hereof, it being
32 understood that the aggregate principal amount of the Loans and all other applicable
33 indebtedness, equity securities and all other liabilities and obligations as guarantor, endorser or
34 surety of the Borrower at any one time outstanding will not exceed the applicable limits
35 authorized by the FPSC Financing Order.
36

37 Section 4.03. Title to Properties. The Borrower or one or more of its consolidated
38 subsidiaries owns all of the assets reflected as the Borrower's assets in the consolidated balance
39 sheet of the Borrower as at December 31, 2018 referred to in *Section 4.04* or acquired since that
40 date (except property and assets sold or otherwise disposed of in the ordinary course of business
41 or as otherwise permitted pursuant to the provisions of this Agreement since that date and except
42 for such assets owned from time to time by any entity whose assets are consolidated on the
43 balance sheet of the Borrower and its Subsidiaries solely as a result of the operation of FASB
44 ASC 810), subject to no Liens, except for such matters set forth in Schedule 4.03 or otherwise
45 permitted pursuant to the provisions of this Agreement and Liens upon the assets of any
46 Subsidiary of the Borrower.

1 Section 4.04. Financial Statements. The consolidated balance sheet of the Borrower and
2 its subsidiaries for the period ending December 31, 2018, and related consolidated income
3 statements of the Borrower and its subsidiaries for the fiscal period then ended, and have been
4 certified by the Borrower's independent public accountants. The financial statements of the
5 Borrower have been prepared in accordance with generally accepted accounting principles and
6 present fairly the consolidated financial position and results of operations of the Borrower and its
7 subsidiaries, taken as a whole, at the respective dates and for the respective periods to which they
8 apply. As of the Effective Date, there has been no material adverse change in the business or
9 financial condition of the Borrower and its Subsidiaries, taken as a whole, since December 31,
10 2018, except as set forth in Schedule 4.04.
11

12 Section 4.05. Franchises, Patents, Copyrights, Etc. The Borrower possesses all material
13 franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in
14 respect of the foregoing, adequate for the conduct of its business substantially as now conducted,
15 and, except where in any such case any such conflict would not have a material adverse effect on
16 the business, properties or financial condition of the Borrower and its Subsidiaries, taken as a
17 whole, without known conflict with any rights of others.
18

19 Section 4.06. Litigation. Except as described in Schedule 4.06, as of the Effective Date,
20 there is no litigation or other legal proceedings pending, or, to the knowledge of the Borrower,
21 threatened against the Borrower or any of its Subsidiaries that is reasonably likely to be
22 determined adversely to the Borrower or any of its Subsidiaries, and if determined adversely to
23 the Borrower or any of its Subsidiaries, would reasonably be expected to have a material adverse
24 effect on the business, properties or financial condition of the Borrower and its Subsidiaries,
25 taken as a whole, or to materially impair the right of the Borrower to carry on its business
26 substantially as now conducted by it. There is no litigation or other legal proceedings pending,
27 or, to the knowledge of the Borrower, threatened against the Borrower or any of its Subsidiaries
28 that if determined adversely to the Borrower or any of its Subsidiaries could reasonably be
29 expected to question the validity of this Agreement or any of the other Loan Documents or any
30 actions taken or to be taken pursuant hereto or thereto.
31

32 Section 4.07. Compliance With Other Instruments, Laws, Etc. The Borrower is not in
33 violation of any provision of its charter documents, bylaws, or any agreement or instrument to
34 which it is subject or by which it or any of its properties is bound or any material decree, order,
35 judgment, statute, license, rule or regulation, in any of the foregoing cases in a manner that
36 would materially and adversely affect the financial condition, properties or business of the
37 Borrower and its Subsidiaries, taken as a whole.
38

39 Section 4.08. Tax Status. The Borrower has (a) prepared and, giving effect to all proper
40 extensions, timely filed all federal and state income tax returns and, to the best knowledge of the
41 Borrower, all other material tax returns, reports and declarations required by any applicable
42 jurisdiction to which the Borrower is legally subject, which, giving effect to all proper
43 extensions, were required to be filed prior to the Effective Date, (b) paid all taxes and other
44 governmental assessments and charges shown or determined to be due on such returns, reports
45 and declarations, except those being contested in good faith and by appropriate proceedings, and
46 (c) to the extent deemed necessary or appropriate by the Borrower, set aside on its books

1 provisions reasonably adequate for the payment of all known taxes for periods subsequent to the
2 periods to which such returns, reports or declarations apply.
3

4 Section 4.09. No Default. No Default has occurred and is continuing.
5

6 Section 4.10. Investment Company Act. The Borrower is not an “investment company”,
7 or an “affiliated company” or a “principal underwriter” of an “investment company”, as such
8 terms are defined in the Investment Company Act of 1940.
9

10 Section 4.11. Employee Benefit Plans.
11

12 (a) In General. Each Employee Benefit Plan sponsored by the Borrower or its
13 Subsidiaries has been maintained and operated in compliance in all material respects with the
14 provisions of ERISA and, to the extent applicable, the Code, including but not limited to the
15 provisions thereunder respecting prohibited transactions.
16

17 (b) Terminability of Welfare Plans. Under each Employee Benefit Plan
18 sponsored by the Borrower or its Subsidiaries which is an employee welfare benefit plan within
19 the meaning of §3(1) or §3(2)(B) of ERISA, no benefits are due unless the event giving rise to
20 the benefit entitlement occurs prior to plan termination (except as required by Title I, Part 6 of
21 ERISA). The Borrower and its Subsidiaries may terminate their respective participation in each
22 such plan at any time (other than a plan that provides benefits pursuant to a collective bargaining
23 agreement) in the discretion of the Borrower or its Subsidiaries without liability to any Person.
24

25 (c) Guaranteed Pension Plans. As of the Effective Date, each contribution
26 required to be made to a Guaranteed Pension Plan by the Borrower or an ERISA Affiliate,
27 whether required to satisfy the minimum funding requirements described in §302 or §303 of
28 ERISA, the notice or lien provisions of §303(k) of ERISA, or otherwise, has been timely made.
29 As of the Effective Date, no waiver from the minimum funding standards or extension of
30 amortization periods has been received with respect to any Guaranteed Pension Plan. As of the
31 Effective Date, no liability to the PBGC (other than required insurance premiums, all of which
32 have been paid) has been incurred by the Borrower or any ERISA Affiliate with respect to any
33 Guaranteed Pension Plan and there has not been any ERISA Reportable Event which presents a
34 material risk of termination of any Guaranteed Pension Plan by the PBGC. Based on the latest
35 valuation of each Guaranteed Pension Plan (which in each case occurred within twelve months
36 of the date of this representation), and on the actuarial methods and assumptions employed for
37 that valuation, the aggregate benefit liabilities of all such Guaranteed Pension Plans within the
38 meaning of §4001 of ERISA did not exceed the aggregate value of the assets of all such
39 Guaranteed Pension Plans by more than \$500,000.
40

41 (d) Multiemployer Plans. Neither the Borrower nor any ERISA Affiliate has
42 incurred any material unpaid liability (including secondary liability) to any Multiemployer Plan
43 as a result of a complete or partial withdrawal from such Multiemployer Plan under §4201 of
44 ERISA or as a result of a sale of assets described in §4204 of ERISA. Neither the Borrower nor
45 any ERISA Affiliate has been notified that any Multiemployer Plan is in reorganization,
46 insolvent or “endangered” or “critical” status under and within the meaning of §4241, §4245 or

1 §305, respectively, of ERISA or that any Multiemployer Plan intends to terminate or has been
2 terminated under §4041A of ERISA.
3

4 Section 4.12. Use of Proceeds. The proceeds of the Loans shall be used for the general
5 corporate purposes of the Borrower.
6

7 Section 4.13. Compliance with Margin Stock Regulations. The Borrower is not engaged
8 principally, or as one of its important activities, in the business of extending credit for the
9 purpose of purchasing or carrying “margin stock” (within the meaning of Regulation U or
10 Regulation X of the Federal Reserve Board), and no part of the proceeds of the Loans will be
11 used to purchase or carry any “margin stock,” to extend credit to others for the purpose of
12 purchasing or carrying any “margin stock” or for any other purpose which might constitute this
13 transaction a “purpose credit” within the meaning of Regulation U or Regulation X. In addition,
14 not more than twenty-five percent (25%) of the value (as determined by any reasonable method)
15 of the assets of the Borrower consists of margin stock.
16

17 Section 4.14. USA PATRIOT ACT, OFAC and Other Regulations.
18

19 (a) Neither the Borrower, any of its Subsidiaries or, to the knowledge of the
20 Borrower, any of the affiliates or respective officers, directors, brokers or agents of the
21 Borrower, such Subsidiary or affiliate (i) has violated any applicable anti-corruption laws,
22 Sanctions or Anti-Terrorism Laws or (ii) has engaged in any transaction, investment, undertaking
23 or activity that conceals the identity, source or destination of the proceeds from any category of
24 prohibited offenses designated by the Organization for Economic Co-operation and
25 Development’s Financial Action Task Force on Money Laundering.
26

27 (b) Neither the Borrower, any of its Subsidiaries or, to the knowledge of the
28 Borrower, any of the affiliates or respective officers, directors, employees, brokers or agents of
29 the Borrower, such Subsidiary or affiliate is a Person that is, or is owned or controlled by
30 Persons that are: (i) the subject of any Sanctions, or (ii) located, organized or resident in a
31 country, region or territory that is, or whose government is, the subject of Sanctions.
32

33 (c) Neither the Borrower, any of its Subsidiaries or, to the knowledge of the
34 Borrower, any of the affiliates or respective officers, directors, brokers or agents of the
35 Borrower, such Subsidiary or affiliate acting or benefiting in any capacity in connection with the
36 Loans (i) conducts any business or engages in making or receiving any contribution of goods,
37 services or money to or for the benefit of any Person, or in any country or territory, that is the
38 subject of any Sanctions, (ii) deals in, or otherwise engages in any transaction related to, any
39 property or interests in property blocked pursuant to any Sanctions or Anti-Terrorism Law or (iii)
40 engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of
41 evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Sanctions or
42 Anti-Terrorism Law.
43

44 (d) The Borrower has and, to the knowledge of the Borrower, its Subsidiaries
45 have, conducted their business in compliance with applicable Sanctions, anti-corruption laws, the
46 USA PATRIOT Act, Anti-Terrorism Laws and money laundering laws and have instituted and
47 maintained policies and procedures designed to promote and achieve compliance with such laws.

1 portion of the fiscal year to which they apply, all prepared in accordance with generally accepted
2 accounting principles, together with a certification by the principal financial or accounting
3 officer, Treasurer or Assistant Treasurer of the Borrower that the information contained in such
4 financial statements fairly presents the financial position of the Borrower and its Subsidiaries as
5 of the end of such quarter (subject to year-end adjustments). The Agent and each of the Lenders
6 hereby agree that the foregoing requirement shall be satisfied by delivery (or deemed delivery in
7 accordance with the final paragraph of this *Section 5.04*) to each of the Lenders of the
8 Borrower's quarterly report on Form 10-Q for the period for which such financial statements are
9 being delivered, together with a written statement from the principal financial or accounting
10 officer, Treasurer or Assistant Treasurer of the Borrower to the effect that such officer has read a
11 copy of this Agreement, and that, in making the examination necessary to said certification, he or
12 she has obtained no knowledge of any Default, or, if such officer has obtained knowledge of any
13 then existing Default, he or she shall disclose in such statement any such Default; provided that
14 such officer shall not be liable to the Agent or the Lenders for failure to obtain knowledge of any
15 Default;

16
17 (c) contemporaneously with the filing or mailing thereof, copies of all
18 material of a financial nature filed by the Borrower with the Securities and Exchange
19 Commission;

20
21 (d) promptly after the commencement thereof, Notice of all actions and
22 proceedings before any court, governmental agency or arbitrator of the type described in *Section*
23 *4.06* to which the Borrower is a party or its properties are subject; and
24

25 (e) from time to time such other financial data and information as the Agent
26 or any Lender may reasonably request, including, without limitation, information or
27 certifications as may be required under the Beneficial Ownership Regulation, if applicable.
28

29 Reports or financial information required to be delivered pursuant to this *Section 5.04* shall, to
30 the extent any such financial statements, reports, proxy statements or other materials are included
31 in materials otherwise filed with the Securities and Exchange Commission, be deemed to be
32 delivered hereunder on the date of such filing, and may be delivered electronically and if so,
33 shall be deemed to have been delivered on the date on which the Borrower gives notice to the
34 Lender that the Borrower has posted such report or financial information or provides a link
35 thereto on the Borrower's website on the Internet or on Intralinks or a substantially similar
36 transmission system to which access is available to the Lender.
37

38 Section 5.05. Default Notification. The Borrower will promptly provide Notice to the
39 Agent regarding the occurrence of any Default of which the principal financial or accounting
40 officer, Treasurer or Assistant Treasurer of the Borrower has actual knowledge or notice.
41

42 Section 5.06. Corporate Existence: Maintenance of Properties. The Borrower will do or
43 cause to be done all things necessary to preserve and keep in full force and effect its corporate
44 existence (except as otherwise expressly permitted by the first sentence of *Section 5.11*), and will
45 do or cause to be done all things commercially reasonable to preserve and keep in full force and
46 effect its franchises; and the Borrower will, (a) cause all of its properties used and useful in the
47 conduct of its business to be maintained and kept in good condition, repair and working order

1 and supplied with all necessary equipment, and (b) cause to be made all necessary repairs,
2 renewals, replacements, betterments and improvements thereof, all as in the judgment of the
3 Borrower may be necessary, so that the business carried on in connection therewith may be
4 properly and advantageously conducted at all times; *provided that* nothing in this *Section 5.06*
5 shall prevent the Borrower or any of its Subsidiaries from discontinuing the operation and
6 maintenance of any of its properties if such discontinuance is, in the sole judgment of the
7 Borrower or its Subsidiary, as the case may be, desirable in the conduct of its business and does
8 not in the aggregate materially adversely affect the business, properties or financial condition of
9 the Borrower and its Subsidiaries, taken as a whole; *provided further that* nothing in this *Section*
10 *5.6* shall affect or impair in any manner the ability of the Borrower or any of its Subsidiaries to
11 sell or dispose of all or any portion of its property and assets (including, without limitation, its
12 shares in any Subsidiary or all or any portion of the property or assets of any Subsidiary); and
13 *provided finally that*, in the event of any loss or damage to its property or assets, the Borrower
14 and its Subsidiaries shall only be obligated to repair, replace or restore any such property or
15 assets if the Borrower or the relevant Subsidiary has determined that such repair, replacement or
16 restoration is necessary or appropriate and any such repair, replacement and/or restoration may
17 be effectuated by the Borrower or such Subsidiary in such time period and in the manner it
18 deems appropriate.
19

20 Section 5.07. Taxes. The Borrower will duly pay and discharge, or cause to be paid and
21 discharged, before the same shall become overdue, all material taxes, assessments and other
22 governmental charges (other than taxes, assessments and other governmental charges that in the
23 aggregate are not material to the business or assets of the Borrower) imposed upon it and its real
24 properties, sales and activities, or any part thereof, or upon the income or profits therefrom, as
25 well as all claims for labor, materials, or supplies that if unpaid might by law become a Lien or
26 charge upon any of its property; provided that any such tax, assessment, charge, levy or claim
27 need not be paid if the validity or amount thereof shall currently be contested in good faith by
28 appropriate proceedings and, to the extent that the Borrower deems necessary, the Borrower shall
29 have set aside on its books adequate reserves with respect thereto; and provided further that the
30 Borrower will pay all such taxes, assessments, charges, levies or claims forthwith upon the
31 commencement of proceedings to foreclose any Lien that may have attached as security therefor.
32

33 Section 5.08. Visits by Lenders. The Borrower shall permit the Lenders, through the
34 Agent or any of the Lenders' other designated representatives, to visit the properties of the
35 Borrower and to discuss the affairs, finances and accounts of the Borrower with, and to be
36 advised as to the same by, its officers, upon reasonable Notice and all at such reasonable times
37 and intervals as the Agent or any Lender may reasonably request.
38

39 Section 5.09. Compliance with Laws, Contracts, Licenses, and Permits. The Borrower
40 will comply with (a) the laws and regulations applicable to the Borrower (including, without
41 limitation, ERISA) wherever its business is conducted, (b) the provisions of its charter
42 documents and by-laws, (c) all agreements and instruments by which it or any of its properties
43 may be bound, and (d) all decrees, orders, and judgments applicable to the Borrower, except
44 where in any such case the failure to comply with any of the foregoing would not materially
45 adversely affect the business, property or financial condition of the Borrower and its
46 Subsidiaries, taken as a whole. If at any time while any portion of the Loans or any other
47 amount hereunder or any commitment is outstanding, any authorization, consent, approval,

1 pennit or license from any officer, agency or instrumentality of any Governmental Authority
2 shall become necessary or required in order that the Borrower may fulfill any of its obligations
3 hereunder or under any other Loan Document, the Borrower will promptly take or cause to be
4 taken all reasonable steps within the power of the Borrower to obtain such authorization,
5 consent, approval, pennit or license and furnish the Agent with evidence thereof.
6

7 Section 5.10. Use of Proceeds. The Borrower will use the proceeds of the Loans solely
8 for the purposes described in Section 4.12.
9

10 Section 5.11. Prohibition of Fundamental Changes. The Borrower will not consummate
11 any transaction of merger or consolidation or amalgamation, or liquidation or dissolution;
12

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21
22 The Borrower will not convey, sell,
23 lease, transfer or otherwise dispose of, in one transaction or a series of transactions, all or
24 substantially all of its business or assets whether now owned or hereafter acquired to another
25 Person unless
26
27
28
29
30

31 Section 5.12. [Reserved.]
32

33 Section 5.13. Indebtedness. The Borrower will insure that all obligations of the
34 Borrower under this Agreement and the other Loan Documents rank and will rank at least pari
35 passu in respect of priority of payment by the Borrower and priority of lien, charge or other
36 security in respect of assets of the Borrower with all other senior unsecured and unsubordinated
37 loans, debts, guarantees or other obligations for money borrowed of the Borrower without any
38 preference one above the other by reason of priority of date incurred, maturity of payment or
39 otherwise, except as permitted pursuant to the provisions of Section 5.14.
40

41 Section 5.14. Liens. The Borrower will not create any Lien upon or with respect to any
42 of its properties, or assign any right to receive income, in each case to secure or provide for the
43 payment of any debt of any Person, other than:
44

45 (i) purchase money liens or purchase money security interests upon or
46 in any property acquired by the Borrower in the ordinary course of business to secure the
47 purchase price or construction cost of such property or to secure indebtedness incurred

1 solely for the purpose of financing the acquisition of such property or construction of
2 improvements on such property;

3
4 (ii) Liens existing on property acquired by the Borrower at the time of
5 its acquisition, provided that such Liens were not created in contemplation of such
6 acquisition and do not extend to any assets other than the property so acquired;

7
8 (iii) Liens securing Nonrecourse Indebtedness created for the purpose
9 of financing the acquisition, improvement or construction of the property subject to such
10 Liens;

11
12 (iv) the replacement, extension or renewal of any Lien permitted by
13 clauses (i) through (iii) of this *Section 5.14* upon or in the same property theretofore
14 subject thereto or the replacement, extension or renewal (without increase in the amount
15 or change in the direct or indirect obligor) of the indebtedness secured thereby;

16
17 (v) Liens upon or with respect to margin stock;

18
19 (vi) (a) deposits or pledges to secure payment of workers'
20 compensation, unemployment insurance, old age pensions or other social security; (b)
21 deposits or pledges to secure performance of bids, tenders, contracts (other than contracts
22 for the payment of money) or leases, public or statutory obligations, surety or appeal
23 bonds or other deposits or pledges for purposes of like general nature in the ordinary
24 course of business; (c) Liens for property taxes not delinquent and Liens for taxes which
25 in good faith are being contested or litigated and, to the extent that the Borrower deems
26 necessary, the Borrower shall have set aside on its books adequate reserves with respect
27 thereto; (d) mechanics', carriers', workmen's, repairmen's or other like Liens arising in
28 the ordinary course of business securing obligations which are not overdue for a period of
29 sixty (60) days or more or which are in good faith being contested or litigated and, to the
30 extent that the Borrower deems necessary, the Borrower shall have set aside on its books
31 adequate reserves with respect thereto; and (e) other matters described in *Schedule 4.03*;

32
33 (vii) any Liens securing any pollution control revenue bonds, solid
34 waste disposal revenue bonds, industrial development revenue bonds or other taxable or
35 tax-exempt bonds or similar obligations issued by or on behalf of the Borrower from time
36 to time, and any Liens given to secure any refinancing or refunding of any such
37 obligations; and

38
39 (viii) judgment Liens that do not constitute an Event of Default;

40
41 (ix) Liens arising by virtue of any statutory or common law provision
42 relating to bankers' Liens, rights of setoff or similar rights as to deposit accounts or other
43 funds maintained with a creditor depository institution; and

44
45 (x) any other Liens or security interests (other than Liens or security
46 interests described in clauses (i) through (ix) of this *Section 5.14*), if the aggregate
47 principal amount of the indebtedness secured by all such Liens and security interests

1 (without duplication) does not exceed in the aggregate \$50,000,000 at any one time
2 outstanding;
3



4
5 Section 5.15. Maintenance of Insurance. The Bonower shall maintain insurance with
6 responsible and reputable insurance companies or associations in such amounts and covering
7 such risks as is usually canied by companies engaged in similar businesses and owning similar
8 properties in the same general areas in which the Bonower operates; provided, however, that the
9 Bonower may self-insure (which may include the establishment of reserves, allocation of
10 resources, establishment of credit facilities and other similar aTangements) to the same extent as
11 other companies engaged in similar businesses and owning similar propeties in the same general
12 areas in which the Bonower operates and to the extent consistent with pmdent business practice.
13

14 Section 5.16. Employee Benefit Plans. The Bonower will not:

15
16 (a) engage in any non-exempt "prohibited transaction" within the meaning of
17 §406 of ERISA or §4975 of the Code which could result in a material liability for the Bonower;
18 or
19

20 (b) pennit any Guaranteed Pension Plan sponsored by the BoITower or its
21 ERISA Affiliates to fail to meet the "minimum funding standards" described in §302 and §303
22 of ERISA, whether or not such deficiency is or may be waived; or
23

24 (c) fail to contribute to any Guaranteed Pension Plan sponsored by the
25 Bonower or its ERISA Affiliates to an extent which, or tenninate any Guaranteed Pension Plan
26 sponsored by the Bonower or its ERISA Affiliates in a manner which, could result in the
27 imposition of a lien or encumbrance on the assets of the Bonower or any of its Subsidiaries
28 pursuant to §303(k) or §4068 of ERISA; or
29

30 (d) pennit or take any action which would result in the aggregate benefit
31 liabilities (within the meaning of §4001(a)(16) of ERISA) of Guaranteed Pension Plans
32 sponsored by the Bonower or its ERISA Affiliates exceeding the value of the aggregate assets of
33 such plans by more than the amount set foIh in *Section 4.11(c)*. For purposes of this covenant,
34 poor investment performance by any trustee or investment management of a Guaranteed Pension
35 Plan shall not be considered as a breach of this covenant.
36

37 Section 5.17. Compliance with Anti-Conuption Laws and Anti-Tenorism Regulations.
38 The Bonower shall not:
39

40 (a) Violate any applicable anti-collIption laws, Sanctions or any Anti-
41 Tenrism Laws or engage in any tiansaction, investment, undertaking or activity that conceals
42 the identity, source or destination of the proceeds from any category of prohibited offenses
43 designated by the Organization for Economic Co-operation and Development's Financial
44 Action Task Force on Money Laundering.

1 (b) Use, directly or indirectly, the proceeds of the Loans, or lend, contribute
2 or otherwise make available such proceeds to any subsidiary, joint venture partner or other
3 Person, (x) in violation of applicable anti-corruption laws, the USA PATRIOT Act, anti-
4 tenorism laws or money laundering laws, (y) to fund any activities or business of or with any
5 Person, or in any county, region or territory, that, is, or whose government is, the subject of
6 Sanctions at the time of such funding, or (z) in any other manner that would result in a violation
7 of Sanctions by any Person (including any Person participating in the Loans, whether as
8 underwriter, advisor, investor, or otherwise).
9

10 (c) Deal in, or otherwise engage in any transaction related to, any property or
11 interests in property blocked pursuant to any Sanctions or Anti-Terrorism Law, or (ii) engage in
12 or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or
13 avoiding, or attempt to violate, any of the prohibitions set forth in any Anti-Terrorism Law.
14

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

19
20
21
22
23
24 ARTICLE 6 - CONDITIONS PRECEDENT.
25

26 Section 6.01. Conditions Precedent to Effectiveness. The effectiveness of this
27 Agreement and the Initial Lender's commitment to make Loans pursuant to *Section 2.01* is
28 subject to the following conditions precedent, each of which shall have been met or performed in
29 the reasonable opinion of the Agent:
30

31 (a) Execution of this Agreement. This Agreement shall have been duly
32 executed and delivered by the Parties.
33

34 (b) Corporate Action. All corporate action necessary for the valid execution,
35 delivery and performance (i) by the Borrower of this Agreement and each other Loan Document
36 to which it is a party shall have been duly and effectively taken, and evidence thereof satisfactory
37 to the Lenders shall have been provided to the Agent.

1 (c) Incumbency Certificate. The Agent shall have received an incumbency
2 certificate from the Borrower, dated as of the Effective Date, signed by a duly authorized officer
3 of the Borrower, and giving the name and bearing a specimen signature of each individual who
4 shall be authorized: (1) to sign in the name and on behalf of the Borrower each of the Loan
5 Documents to which it is a party, (2) in the case of the Borrower, to make requests for Loans or
6 Conversion requests and (3) to give notices and to take other action under the Loan Documents.
7

8 (d) Borrower's Certificate. The Agent shall have received from the Borrower
9 a certificate dated as of the Effective Date substantially in the form of Exhibit D.
10

11 (e) Opinion of Counsel. The Agent shall have received a favorable opinion
12 addressed to the Lenders and the Agent, dated as of the Effective Date, substantially in the form
13 of Exhibit F attached hereto, from Squire Patton Boggs (US) LLP, counsel to the Borrower (and
14 the Borrower instructs such counsel to deliver such opinion to the Lenders and the Agent).
15

16 (f) No Legal Impediment. No change shall have occurred in any law or
17 regulations thereunder or interpretations thereof that in the reasonable opinion of any Lender
18 would make it illegal for such Lender to make any Loan.
19

20 (g) Governmental Regulation. Each Lender shall have received such
21 statements in substance and form reasonably satisfactory to such Lender as such Lender shall
22 require for the purpose of compliance with any applicable regulations of the Comptroller of the
23 Currency or the Board of Governors of the Federal Reserve System.
24

25 (h) Note. The Note (if same is requested by the Lender) shall have been duly
26 executed and delivered by the Borrower to [REDACTED], as the sole Lender on the
27 Effective Date.
28

29 (i) Proceedings and Documents. All proceedings in connection with the
30 transactions contemplated by this Agreement, the other Loan Documents and all other
31 documents incident thereto shall be satisfactory in substance and in form to the Lenders and to
32 counsel for the Agent and such counsel shall have received all information and such counterpart
33 originals or certified or other copies of such documents as the Agent may reasonably request,
34 including, without limitation, information or certifications as may be required under applicable
35 "know your customer" requirements and the Beneficial Ownership Regulation, if applicable.
36

37 **ARTICLE 7 - EVENTS OF DEFAULT, ACCELERATION, ETC.**

38

39 Section 7.01. Events of Default. The following events shall constitute "Events of
40 Default" for purposes of this Agreement:
41

42 (a) the Borrower shall fail to pay any principal of the Loan when the same
43 shall become due and payable, whether at the stated date of maturity or any accelerated date of
44 maturity or at any other date fixed for payment; or
45

46 (b) the Borrower shall fail to pay any interest on the Loan, any fees or other
47 sums due hereunder or under any of the other Loan Documents, for a period of [REDACTED]

1 [REDACTED] following the date when the same shall become due and payable, whether at the stated date
2 of maturity or any accelerated date of maturity or at any other date fixed for payment; or
3

4 (c) (i) the Borrower shall fail to perform any term, covenant or agreement
5 contained in *Section 5.05*, *Section 5.06* (but only as to corporate existence), *Section 5.10*, *Section*
6 *5.11* (upon the consummation of any transaction prohibited by said *Section 5.11*), *Section 5.14* or
7 *Section 5.18* or (ii) the Borrower shall fail to perform any term, covenant or agreement contained
8 herein or in any of the other Loan Documents (other than those specified elsewhere in this
9 *Section 7.01*) for [REDACTED] after Notice of such failure has been given to the Borrower by
10 the Agent or any Lender; or
11

12 (d) any representation or warranty of the Borrower in this Agreement or any
13 of the other Loan Documents or in any other document or instrument delivered pursuant to or in
14 connection with this Agreement shall prove to have been false in any material respect upon the
15 date when made or deemed to have been made by the terms of this Agreement; or
16

17 (e) the Borrower shall default in the payment when due of any principal of or
18 any interest on any Funded Debt [REDACTED] or more, or fail to observe or perform
19 any material term, covenant or agreement contained in any agreement by which it is bound,
20 evidencing or securing Funded Debt, in an aggregate amount [REDACTED] or more, for such
21 period of time as would permit (assuming the giving of appropriate notice or the lapse of time if
22 required) the holder or holders thereof or of any obligations issued thereunder to accelerate the
23 maturity thereof, unless such failure shall have been cured by the Borrower or effectively waived
24 by such holder or holders; or
25

26 (f) the Borrower shall (1) voluntarily terminate operations or apply for or
27 consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or
28 liquidator of the Borrower or of all or a substantial part of the assets of the Borrower (2) admit in
29 writing its inability, or be generally unable, to pay its debts as the debts become due, (3) make a
30 general assignment for the benefit of its creditors, (4) commence a voluntary case under the
31 United States Bankruptcy Code (as now or hereafter in effect), (5) file a petition seeking to take
32 advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or
33 composition or adjustment of debts, (6) fail to controvert in a timely and appropriate manner, or
34 acquiesce in writing to, any petition filed against it in an involuntary case under the Bankruptcy
35 Code, or (7) take any corporate action for the purpose of effecting any of the foregoing; or
36

37 (g) without its application, approval or consent, a proceeding shall be
38 commenced, in any court of competent jurisdiction, seeking in respect of the Borrower: the
39 liquidation, reorganization, dissolution, winding-up, or composition or readjustment of debt, the
40 appointment of a trustee, receiver, liquidator or the like of the Borrower or of all or any
41 substantial part of the assets of the Borrower or other like relief in respect of the Borrower under
42 any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or
43 adjustment of debts unless such proceeding is contested in good faith by the Borrower; and, if
44 the proceeding is being contested in good faith by the Borrower the same shall continue
45 undismissed, or unstayed and in effect, for any period of ninety (90) consecutive days, or an
46 order for relief against the Borrower shall be entered in any involuntary case under the
47 Bankruptcy Code; or
48

1 (h) there shall remain in force, undischarged, unsatisfied and unstayed, for
2 more than thirty (30) days, whether or not consecutive, any final judgment against the Borrower
3 that, with other then undischarged, unsatisfied and unstayed, outstanding final judgments against
4 the Borrower exceeds in the aggregate [REDACTED]; or
5

6 (i) if any of the Loan Documents shall be canceled, terminated, revoked or
7 rescinded by the Borrower otherwise than in accordance with the terms thereof or with the
8 express prior written agreement, consent or approval of all Lenders, or any action at law, suit or
9 in equity or other legal proceeding to cancel, revoke or rescind any of the Loan Documents shall
10 be commenced by or on behalf of the Borrower, any of its stockholders, or any court or any other
11 Governmental Authority of competent jurisdiction shall make a determination that, or issue a
12 judgment, order, decree or ruling to the effect that, any one or more of the Loan Documents is
13 illegal, invalid or unenforceable in accordance with the terms thereof; or
14

15 (j) (i) with respect to any Guaranteed Pension Plan, (A) an ERISA Reportable
16 Event shall have occurred; (B) an application for a minimum funding waiver shall have been
17 filed; (C) a notice of intent to terminate such plan pursuant to Section 4041(a)(2) of ERISA shall
18 have been issued; (D) a lien under Section 303(k) of ERISA shall be imposed; (E) the PBGC
19 shall have instituted proceedings to terminate such plan; (F) the PBGC shall have applied to have
20 a trustee appointed to administer such plan pursuant to Section 4042 of ERISA; or (G) any event
21 or condition that constitutes grounds for the termination of, or the appointment of a trustee to
22 administer, such plan pursuant to Section 4042 of ERISA shall have occurred or shall exist,
23 provided that with respect to the event or condition described in Section 4042(a)(4) of ERISA,
24 the PBGC shall have notified the Borrower or any ERISA Affiliate that it has made a
25 determination that such plan should be terminated on such basis; or (ii) with respect to any
26 Multiemployer Plan, the Borrower or any ERISA Affiliate shall incur liability as a result of a
27 partial or complete withdrawal from such plan or the reorganization, insolvency or termination of
28 such plan; and, in the case of each of (i) or (ii), the Majority Lenders shall have determined in
29 their reasonable discretion that such events or conditions, individually or in the aggregate,
30 reasonably could be expected likely to result in liability of the Borrower in an aggregate amount
31 exceeding [REDACTED] or
32

33 (k) there shall occur any Change of Control; or
34

35 Section 7.02. Lenders' Remedies. Upon the occurrence of any Event of Default, for so
36 long as same is continuing, the Agent shall, at the request of, or may, with the consent of, the
37 Majority Lenders, by Notice to Borrower (an "Acceleration Notice"):
38

39 (i) declare all amounts owing with respect to this Agreement and all Notes, if any, as
40 have been issued hereunder to be, and they, shall thereupon forthwith become,
41 immediately due and payable without presentment, demand, protest or other
42 notice of any kind, all of which are hereby expressly waived by the Borrower;
43

44 *provided* that in the event of any Event of Default specified in Section 7.01(f) or Section 7.01(g),
45 all amounts owing with respect to this Agreement and all Notes, if any, as have been issued
46 hereunder, shall become immediately due and payable automatically and without any
47 requirement of an Acceleration Notice from Agent or any Lender.

1
2
3 **ARTICLE 8 - SHARING.**
4

5 Section 8.01. Sharing Among Lenders. If any Lender shall obtain from the Borrower
6 any payment of any principal of or interest on any Loan owing to it or payment of any other
7 amount under this Agreement or any other Loan Document through the exercise of any right of
8 set-off, banker's lien or counterclaim or similar right or otherwise (other than from the Agent as
9 provided herein and other than amounts owing to such Lender pursuant to *Sections 3.05, 3.06,*
10 *3.08, 3.09* or *Article 10*), and, as a result of such payment, such Lender shall have received a
11 greater percentage of the principal of or interest on the Loans or such other amounts then due
12 hereunder or thereunder by the Borrower to such Lender than the percentage received by any
13 other Lender, it shall promptly purchase from such other Lenders a participation in (or, if and to
14 the extent specified by such Lender, a direct interest in) the Loans or such other amounts,
15 respectively, owing to such other Lenders (or in interest due thereon, as the case may be) in such
16 amounts, and make such other adjustments from time to time as shall be equitable, to the end that
17 all the Lenders shall share the benefit of such excess payment (net of any expenses that may be
18 incurred by such Lender in obtaining or preserving such excess payment) pro rata in accordance
19 with the unpaid principal of and/or interest on the Loans or such other amounts, respectively,
20 owing to each of the Lenders; provided that, for the purpose of calculating any Lender's Pro Rata
21 Share of any payment hereunder, payments to each such Lender shall include any amounts set
22 off by the Borrower against such Lender pursuant to *Section 8.02*.
23

24 Section 8.02. Borrower's Offset Rights. To the extent permitted by law, the Borrower
25 may offset against any payments due to any Lender under this Agreement or the Notes the
26 amounts of any loss suffered by the Borrower as a result of the failure of such Lender to return
27 any monies of the Borrower on deposit with such Lender due to the insolvency of such Lender.
28 Any such offset may be made only against payments due to the insolvent Lender, when and as
29 the same become due, and no offsets may be made against any amounts due and payable to any
30 other Lender. The Borrower may not exercise any right of setoff with respect to all or any
31 portion of deposits which are insured by the Federal Deposit Insurance Corporation.
32

33 **ARTICLE 9 - AGENT.**

34 **THE AGENT**

35 Section 9.01 Appointment and Authority. Each of the Lenders hereby irrevocably
36 appoints [REDACTED] to act on its behalf as the Agent hereunder and under the other
37 Loan Documents and authorizes the Agent to take such actions on its behalf and to exercise such
38 powers as are delegated to the Agent by the terms hereof or thereof, together with such actions
39 and powers as are reasonably incidental thereto. The provisions of this Article 9 are solely for
40 the benefit of the Agent and the Lenders, and except as otherwise provided herein, the Borrower
41 shall not have rights as a third-party beneficiary of any of such provisions. It is understood and
42 agreed that the use of the term "Agent" herein or in any other Loan Documents (or any other
43 similar term) with reference to the Agent is not intended to connote any fiduciary or other
44 implied (or express) obligations arising under agency doctrine of any applicable law. Instead

1 such term is used as a matter of market custom, and is intended to create or reflect only an
2 administrative relationship between contracting parties.
3

4 Section 9.02 Rights as a Lender. The Person serving as the Agent hereunder shall have
5 the same rights and powers when acting in its capacity as a Lender as any other Lender, and may
6 exercise such rights and powers as though it were not the Agent, and the term “Lender” and
7 “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires,
8 include the Person serving as the Agent hereunder in its individual capacity. Such Person and its
9 affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor
10 or in any other advisory capacity for, and generally engage in any kind of business with, the
11 Borrower or any Subsidiary or other affiliate thereof as if such Person were not the Agent
12 hereunder and without any duty to account therefor to Lenders.
13

14 Section 9.03 Exculpatory Provisions.
15

16 (a) The duties and obligations of the Agent are only as expressly set forth
17 herein and in the other Loan Documents, and its duties hereunder shall be administrative in
18 nature. Without limiting the generality of the foregoing, the Agent:
19

20 (i) shall not be subject to any fiduciary or other implied duties,
21 regardless of whether a Default has occurred and is continuing;
22

23 (ii) shall not have any duty to take any discretionary action or exercise
24 any discretionary powers, except discretionary rights and powers expressly contemplated
25 hereby or by the other Loan Documents that the Agent is required to exercise as directed
26 in writing by the Majority Lenders (or such other number or percentage of Lenders as
27 shall be expressly provided for herein or in the other Loan Documents); *provided* that the
28 Agent shall not be required to take any action that, in its opinion or the opinion of its
29 counsel, may expose the Agent to liability or that is contrary to any Loan Document or
30 applicable law, including for the avoidance of doubt any action that may be in violation
31 of the automatic stay under any Insolvency Proceedings or that may effect a forfeiture,
32 modification or termination of property of a Defaulting Lender in violation of any
33 Insolvency Proceedings; and
34

35 (iii) shall not, except as expressly set forth herein and in the other Loan
36 Documents, have any duty to disclose, and shall not be liable for the failure to disclose,
37 any information relating to the Borrower or any of the Borrower’s affiliates that is
38 communicated to or obtained by the Person serving as the Agent or any of its affiliates in
39 any capacity.
40

41 (b) The Agent shall not be liable for any action taken or not taken by it
42 (i) with the consent or at the request of the Majority Lenders (or such other number or percentage
43 of Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary,
44 under the circumstances as provided in Section 7.02 and Section 10.01), or (ii) in the absence of
45 its own gross negligence or willful misconduct. The Agent shall be deemed not to have
46 knowledge of any Default unless and until Notice describing such Default is given to the Agent
47 by the Borrower, a Lender.

1 (c) The Agent shall not be responsible for or have any duty to ascertain or
2 inquire into (i) any statement, warranty or representation made in or in connection with this
3 Agreement or any other Loan Document, (ii) the contents of any certificate, report or other
4 document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the
5 performance or observance of any of the covenants, agreements or other terms or conditions set
6 forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability,
7 effectiveness or genuineness of this Agreement, any other Loan Document or any other
8 agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article 6
9 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to
10 the Agent.

11
12 Section 9.04 Reliance by the Agent. The Agent shall be entitled to rely upon, and shall
13 not incur any liability for relying upon, any notice, request, certificate, consent, statement,
14 instrument, document or other writing (including any electronic message, Internet or intranet
15 website posting or other distribution) believed by it to be genuine and to have been signed, sent
16 or otherwise authenticated by the proper Person. The Agent also may rely upon any statement
17 made to it orally or by telephone and believed by it to have been made by the proper Person, and
18 shall not incur any liability for relying thereon (*provided* that the foregoing is not intended to be
19 construed or to operate in derogation of the Notice requirements in Section 10.02). In
20 determining compliance with any condition hereunder to the making of a Loan that by its terms
21 must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is
22 satisfactory to such Lender unless the Agent shall have received notice to the contrary from such
23 Lender prior to the making of such Loan. The Agent may consult with legal counsel (who may
24 be counsel for the Borrower), independent accountants and other experts selected by it, and shall
25 not be liable for any action taken or not taken by it in accordance with the advice of any such
26 counsel, accountants or experts.

27
28 Section 9.05 Indemnification. Lenders agree to indemnify the Agent (to the extent not
29 reimbursed under Section 10.03 and Section 10.04, but without limiting the obligations of the
30 Borrower under said Sections, and ratably in accordance with its respective Commitment) for
31 any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs,
32 expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred
33 by or asserted (including by any Lender) against the Agent arising out of or by reason of any
34 investigation in or in any way relating to or arising out of this Agreement or any other Loan
35 Document or any other documents contemplated by or referred to herein or therein or the
36 transactions contemplated hereby or thereby (including, without limitation, the costs and
37 expenses that the Borrower is obligated to pay under Section 10.03 and Section 10.04 but
38 excluding, unless a Default has occurred and is continuing, normal administrative costs and
39 expenses incident to the performance of its agency duties hereunder) or the enforcement of any
40 of the terms hereof or thereof or of any such other documents, *provided* that no Lender shall be
41 liable for any of the foregoing to the extent they arise from the gross negligence or willful
42 misconduct of the party to be indemnified as determined in a final nonappealable judgment by a
43 court of competent jurisdiction.

44
45 Section 9.06 Delegation of Duties. The Agent may perform any and all of its duties
46 and exercise its rights and powers hereunder or under any other Loan Document by or through
47 any one or more sub-agents appointed by the Agent. The exculpatory provisions of this Article
48

1 shall apply to the Agent's activities as the Agent, and also shall apply to the activities any such
2 sub-agent permitted herein. The Agent shall not be responsible for the negligence or misconduct
3 of any sub-agent except to the extent that such sub-agent acted with gross negligence or willful
4 misconduct.
5

6 Section 9.07 Resignation or Removal of the Agent.
7

8 (a) The Agent may at any time give Notice of its resignation to the Lenders
9 and the Borrower. Upon receipt of any such notice of resignation, the Majority Lenders shall
10 have the right, in consultation with the Borrower, and, so long as no Default is continuing,
11 subject to the consent of the Borrower, to appoint a successor, which shall be a bank with an
12 office in the United States, or an affiliate thereof with an office in the United States. If no such
13 successor shall have been so appointed by the Majority Lenders and shall have accepted such
14 appointment within thirty (30) days after the retiring Agent gives Notice of its resignation (or
15 such earlier day as shall be agreed by the Majority Lenders) (the "Resignation Effective Date"),
16 then the retiring Agent may (but shall not be obligated to), on behalf of the Lenders, in
17 consultation with the Borrower, and, so long as no Default is continuing, subject to the consent
18 of the Borrower, appoint a successor Agent meeting the qualifications set forth above. Whether
19 or not a successor has been appointed, such resignation shall become effective in accordance
20 with such Notice on the Resignation Effective Date.
21

22 (b) If the Person serving as the Agent is a Defaulting Lender pursuant to
23 clause (d) of the definition thereof, the Majority Lenders may, to the extent permitted by
24 applicable law, by Notice to the Borrower and such Person remove such Person as the Agent
25 and, in consultation with the Borrower, and, so long as no Default is continuing, subject to the
26 consent of the Borrower, appoint a successor, which successor Agent shall be a Lender and
27 maintain an office in the United States. If no such successor shall have been so appointed by the
28 Majority Lenders and shall have accepted such appointment within 30 days (or such earlier day
29 as shall be agreed by the Majority Lenders) (the "Removal Effective Date"), then such removal
30 shall nonetheless become effective in accordance with such Notice on the Removal Effective
31 Date.
32

33 (c) With effect from the Resignation Effective Date or the Removal Effective
34 Date (as applicable): (1) the retiring or removed Agent shall be discharged from its duties and
35 obligations hereunder and under the other Loan Documents (except that, in the event any
36 collateral security is then being held by the Agent on behalf of the Lenders under any of the Loan
37 Documents, the retiring or removed Agent shall continue to hold such collateral security until
38 such time as a successor Agent is appointed); and (2) except for any indemnity payments owed
39 to the retiring or removed Agent, all payments, communications and determinations provided to
40 be made by, to or through the Agent shall instead be made by or to each of the Lenders directly,
41 until such time, if any, as the Majority Lenders appoint a successor Agent as provided for in this
42 Section 9.07. Upon the acceptance by a successor of such appointment for it to act as successor
43 Agent hereunder, such successor shall succeed to and become vested with all of the rights,
44 powers, privileges and duties of the retiring or removed Agent (other than any rights to
45 indemnity payments owed to the retiring or removed Agent), and the retiring or removed Agent
46 shall, except as provided above, be discharged from all of its duties and obligations hereunder or
47 under the other Loan Documents (*provided* that the foregoing shall not relieve the retiring or

1 removed Agent from any liability for its gross negligence or willful misconduct hereunder). The
2 fees payable by the Borrower to a successor Agent shall be the same as those payable to the
3 predecessor Agent unless otherwise agreed between the Borrower and such successor Agent.
4 After the retiring or removed Agent's resignation or removal hereunder and under the other Loan
5 Documents, the provisions of this Article 9 and Section 10.03 and Section 10.04 shall continue in
6 effect for the benefit of such retiring or removed Agent and its sub-agents in respect of any
7 actions taken or omitted to be taken by any of them while the retiring or removed Agent was
8 acting as the Agent hereunder.
9

10 Section 9.08 Non-Reliance on the Agent and Other Lenders. Each of the Lenders
11 acknowledges that it has, independently and without reliance upon the Agent or any other Lender
12 or any of their Related Parties and based on such documents and information as it has deemed
13 appropriate, made its own credit analysis and decision to enter into this Agreement. Each of the
14 Lenders also acknowledges that it will, independently and without reliance upon the Agent or
15 any other Lender or any of their Related Parties, and based on such documents and information
16 as it shall from time to time deem appropriate, continue to make its own decisions in taking or
17 not taking action under or based upon this Agreement, any other Loan Document or any related
18 agreement or any document furnished hereunder or thereunder.
19

20 Section 9.09 No Other Duties, etc. Anything herein to the contrary notwithstanding,
21 none of the Arrangers or Bookrunners listed on the cover page hereof shall have any powers,
22 duties or responsibilities under this Agreement or any of the other Loan Documents, except in its
23 capacity, as applicable, as the Agent or a Lender hereunder.
24

25 Section 9.10 Lender ERISA Matters. (a) Each of the Lenders (x) represents and
26 warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from
27 the date such Person became a Lender party hereto to the date such Person ceases being a Lender
28 party hereto, for the benefit of, the Agent and its respective affiliates, and not, for the avoidance
29 of doubt, to or for the benefit of the Borrower, that at least one of the following is and will be
30 true:
31

32 (i) such Lender is not using "plan assets" (within the meaning of
33 Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such
34 Lender's entrance into, participation in, administration of and performance of, the Loans,
35 the commitments or this Agreement,
36

37 (ii) the transaction exemption set forth in one or more PTEs, such as
38 PTE 84-14 (a class exemption for certain transactions determined by independent
39 qualified professional asset managers), PTE 95-60 (a class exemption for certain
40 transactions involving insurance company general accounts), PTE 90-1 (a class
41 exemption for certain transactions involving insurance company pooled separate
42 accounts), PTE 91-38 (a class exemption for certain transactions involving bank
43 collective investment funds) or PTE 96-23 (a class exemption for certain transactions
44 determined by in-house asset managers), is applicable with respect to such Lender's
45 entrance into, participation in, administration of and performance of the Loans, the
46 Commitments and this Agreement,

1 (iii) (A) such Lender is an investment fund managed by a “Qualified
2 Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such
3 Qualified Professional Asset Manager made the investment decision on behalf of such
4 Lender to enter into, participate in, administer and perform the Loans, the commitments
5 and this Agreement, (C) the entrance into, participation in, administration of and
6 performance of the Loans, the commitments and this Agreement satisfies the
7 requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best
8 knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are
9 satisfied with respect to such Lender’s entrance into, participation in, administration of
10 and performance of the Loans, the commitments and this Agreement, or
11

12 (iv) such other representation, warranty and covenant as may be agreed
13 in writing between the Agent, in its sole discretion, and such Lender,
14

15 (b) In addition, unless either (1) sub-clause (i) in the immediately preceding
16 clause (a) is true with respect to a Lender or (2) a Lender has not provided another
17 representation, warranty and covenant in accordance with sub-clause (iv) in the immediately
18 preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person
19 became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender
20 party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the
21 Agent and its affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower,
22 that none of the Agent or any of its affiliates, and not, for the avoidance of doubt, to or for the
23 benefit of the Borrower, that none of the Agent or any of its affiliates is a fiduciary with respect
24 to the assets of such Lender involved in such Lender’s entrance into, participation in,
25 administration of and performance of the Loans, the commitments and this Agreement (including
26 in connection with the reservation or exercise of any rights by the Agent under this Agreement,
27 any Loan Document or any documents related to hereto or thereto).
28

29 As used in this Section:
30

31 “Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is
32 subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or
33 (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for
34 purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee
35 benefit plan” or “plan”.
36

37 “PTE” means a prohibited transaction class exemption issued by the U.S. Department of
38 Labor, as any such exemption may be amended from time to time.
39

40 **ARTICLE 10 - MISCELLANEOUS**

41
42 Section 10.01. Consents, Amendments, Waivers, Etc. Except as otherwise provided in
43 this Agreement, any consent or approval required or permitted by this Agreement to be given by
44 one or more or all of the Lenders may be given, and any term of this Agreement or of any other
45 instrument related hereto or mentioned herein may be amended, and the performance or
46 observance by the Borrower of any terms of this Agreement or such other instrument or the
47 continuance of any Default may be waived (either generally or in a particular instance and either

1 retroactively or prospectively) with, but only with, the written consent of the Borrower and the
2 written consent of the Majority Lenders. Notwithstanding the foregoing, (a) the rate of interest
3 on and the term of the Loans, the Maturity Date, the principal amount of the Loans owing to each
4 Lender, the dates on which interest is required to be paid hereunder, the amount and dates of
5 payment of the fees or principal owing each Lender hereunder may not be changed, the amount
6 of any Lender's commitment hereunder may not be increased and the tenor of such Lender's
7 obligations hereunder may not be extended, in any such case without the written consent of
8 Borrower and the written consent of each Lender affected thereby; (b) Article 9, this Section
9 10.01, the definition of Majority Lenders, the definition of Pro Rata Share and any provision of
10 the Loan Documents that requires action by all of the Lenders may not be amended without the
11 written consent of all of the Lenders and (c) Article 9 may not be amended without the written
12 consent of the Agent. No waiver shall extend to or affect any obligation not expressly waived or
13 impair any right consequent thereon. No course of dealing or delay or omission on the part of
14 the Agent or any Lender in exercising any right shall operate as a waiver thereof or otherwise be
15 prejudicial thereto. No notice to or demand upon the Borrower shall entitle the Borrower to
16 other or further notice or demand in similar or other circumstances.
17

18 Section 10.02. Notices. Except as otherwise expressly provided in this Agreement, all
19 notices, demands, consents, waivers, elections, approvals, requests, and similar communications
20 required or permitted to be provided in connection with this Agreement (any of the foregoing
21 being referred to as a "Notice") shall be set forth in writing and shall be given by registered or
22 certified mail (return receipt requested) or by recognized nationwide courier service (with
23 signature required to evidence receipt), and shall be deemed received by the addressee Party
24 when delivered during normal business hours to such Party's address as shown below (or such
25 other address as that Party may specify from time to time in written Notice given pursuant hereto
26 not less than thirty (30) days prior to the date that the new address is intended to become
27 effective); provided that (x) any Notice delivered in accordance with Article 2 or Article 3 may
28 be delivered by facsimile or other specified electronic delivery system acceptable to the Agent
29 and the Borrower, and (y) any Notice delivered to the appropriate address for the receiving Party
30 at any time other than during normal business hours will be deemed to be given and received by
31 the receiving Party on the next Business Day thereafter:
32

33 (a) if to the Borrower, at 700 Universe Boulevard, Juno Beach, Florida 33408
34 8801, Attention: Treasurer (and for purposes of Notices which can be provided, or confirmed
35 telephonically or by facsimile as specified in Article 2 or Article 3, Telephone No. (561) 694-
36 6204, Facsimile No. (561) 694-3707), or at such other Notice address as the Borrower shall last
37 have furnished in writing to the Agent in accordance with this Section 10.02;
38

39
40 (b) if to the Agent, at [REDACTED]
41 [REDACTED], or such other Notice address as the Agent shall last have
42 furnished in writing to the Person giving the notice;
43

44 (c) if to a Lender, at the Notice address specified in Schedule I, or such other
45 Notice address as the Lender shall last have furnished in writing to the Agent and the Borrower
46 in accordance with this Section 10.02.

1 Section 10.03. Expenses. The Borrower agrees to pay promptly following receipt of
2 written invoices describing in reasonable detail (a) the reasonable fees, expenses and
3 disbursements of the Agent's external counsel incurred in connection with the administration or
4 interpretation of the Loan Documents and other instruments mentioned herein, the negotiation of
5 this Agreement and the closing hereunder, and amendments, modifications, approvals, consents
6 or waivers hereto or hereunder, (b) the reasonable fees, expenses and disbursements of the Agent
7 in connection with the administration or interpretation of the Loan Documents and other
8 instruments mentioned herein, and (c) all reasonable out of pocket expenses including reasonable
9 external attorneys' fees and costs incurred by the Agent or any Lender (provided that the
10 Borrower shall only be responsible for the reasonable fees and expenses of one counsel engaged
11 to represent all such Parties taken as a whole, unless any actual or potential conflict of interest
12 between such Parties makes it inappropriate for one counsel to represent all such Parties, in
13 which event the Borrower shall be responsible for the reasonable fees and expenses of one
14 additional counsel for each group of affected Parties similarly situated taken as a whole) in
15 connection with (i) the enforcement of or preservation of rights under any of the Loan
16 Documents against the Borrower or the administration thereof after the occurrence of a Default,
17 (ii) defending against any action brought by the Borrower or its affiliates against the Agent or
18 any Lender arising under or relating to any of the Loan Documents unless the Borrower or its
19 affiliates are the prevailing party in such action, and (iii) any litigation, proceeding or dispute
20 brought by such lender or the Agent against the Borrower (whether arising hereunder or
21 otherwise in connection with the transactions contemplated hereby) in which such Lender or the
22 Agent is the prevailing party (but without derogation to the provisions of *Section 10.04*). The
23 covenants of this *Section 10.03* shall survive payment or satisfaction of payments of amounts
24 owing with respect to any Notes as may be issued hereunder.
25

26 Section 10.04. Indemnification. The Borrower agrees to indemnify and hold harmless
27 the Agent, the Lenders and their Related Parties (each, an "Indemnitee") from and against any
28 and all claims, actions and suits by a third party (which third party may, for these purposes,
29 include the Agent or a Lender (collectively, "Actions"), whether groundless or otherwise, and
30 from and against any and all liabilities, losses, damages and expenses payable by any Indemnitee
31 to any third party (which third party may, for these purposes, include the Agent or a Lender)
32 (collectively, "Liabilities") of every nature and character incurred by or awarded against any
33 such Indemnitee (including the reasonable fees and expenses of counsel), in each case arising out
34 of this Agreement or any of the other Loan Documents or the transactions contemplated hereby
35 including, without limitation, (a) any actual or proposed use by the Borrower of the proceeds of
36 the Loans, or (b) the Borrower entering into or performing this Agreement or any of the other
37 Loan Documents; provided that the liabilities, losses, damages and expenses indemnified
38 pursuant to this *Section 10.04* shall not include any liabilities, losses, damages and expenses in
39 respect of any taxes, levies, imposts, deductions, charges or withholdings, indemnification for
40 which is provided on the basis, and to the extent, specified in *Section 3.09*; and provided further,
41 that such indemnity shall not be available as to any Indemnitee, to the extent that such liabilities,
42 losses, damages and expenses arise out of the gross negligence, bad faith or willful misconduct
43 of such Indemnitee or any of its Related Parties as determined in a final nonappealable judgment
44 by a court of competent jurisdiction. In the event that any Indemnitee shall become subject to
45 any Action or Liability with respect to any matter for which indemnification may apply pursuant
46 to this *Section 10.04* (an "Indemnity Claim"), such Indemnitee shall give Notice of such
47 Indemnity Claim to the Borrower by telephone at (561) 694 6204 and also in accordance with the

1 written Notice requirements in *Section 10.02*. Such Indemnitee may retain counsel and conduct
2 the defense of such Indemnity Claim, as it may in its sole discretion deem proper, at the sole cost
3 and expense of the Bonower. So long as no Default shall have occurred and be continuing
4 hereunder, no Indemnitee shall compromise or settle any claim without the prior written consent
5 of the Bonower, which consent shall not unreasonably be withheld or delayed (provided that the
6 Bonower shall only be responsible for the reasonable fees and expenses of one counsel for all
7 Indemnitees taken as a whole unless any actual or potential conflict of interest between such
8 Indemnitees makes it inappropriate for one counsel to represent all such Indemnitees, in which
9 event the Bonower shall be responsible for the reasonable fees and expenses of one additional
10 counsel for each group of affected Indemnitees similarly situated taken as a whole). If, and to
11 the extent that the obligations of the Bonower under this *Section 10.04* are unenforceable for any
12 reason, the Bonower hereby agrees to make the maximum contribution to the payment in
13 satisfaction of such obligations which is permissible under applicable law. In the case of an
14 investigation, litigation or other proceeding to which the indemnity in this *Section 10.04* applies,
15 such indemnity shall be effective whether or not the affected Indemnitee is a party thereto and
16 whether or not the transactions contemplated hereby are consummated. The Parties agree not to
17 assert any claim against any other Party or any of its affiliates, or any of its directors, officers,
18 employees, attorneys and agents, on any theory of liability, for special, indirect, consequential or
19 punitive damages arising out of or otherwise relating to this Agreement, any other Loan
20 Document, any of the transactions contemplated herein or the actual or proposed use of the
21 proceeds of the Loans (provided that the foregoing shall not preclude any Indemnitee from
22 seeking to recover the preceding types of damages from the Bonower to the extent the same are
23 specifically payable by such Indemnitee to any third party).
24

25 *Section 10.05. Survival of Covenants.* All covenants, agreements representations and
26 warranties made herein, in the Notes, in any of the other Loan Documents or in any documents
27 or other papers delivered by or on behalf of the Bonower pursuant hereto shall be deemed to
28 have been relied upon by the Agent and the Lenders, notwithstanding any investigation
29 heretofore or hereafter made by any of them, and shall survive the making by the Lenders of the
30 Loans, as herein contemplated, and shall continue in full force and effect so long as any amount
31 due under this Agreement, the Notes, or any of the other Loan Documents remains outstanding.
32 All statements contained in any certificate or other paper delivered to the Agent or any Lender at
33 any time by or on behalf of the Bonower pursuant hereto or in connection with the transactions
34 contemplated hereby, shall constitute representations and warranties by the Bonower hereunder.
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40 *Section 10.06. Assignment and Participations.*

41
42 (a) Successors and Assignments Generally. The provisions of this
43 Agreement shall be binding upon and inure to the benefit of the Parties and their respective
44 successors and assigns permitted hereby, except that the Bonower may not assign or otherwise
45 transfer any of its rights or obligations hereunder without the prior written consent of the Agent
46 and each of the Lenders, and no Lender may assign or otherwise transfer any of its rights
47 or obligations hereunder except (i) to an assignee in accordance with the provisions of
48 *Section 10.06(b)* or
49
50

1 Section 10.06(f), (ii) by way of participation in accordance with the provisions of
2 Section 10.06(d), or (iii) by way of pledge or assignment of a security interest subject to the
3 restrictions of Section 10.06(e) (and any other attempted assignment or transfer by any Party
4 shall be null and void). Other than as specified in Section .08 and Section 10.04, nothing in this
5 Agreement, expressed or implied, shall be construed to confer upon any Person (other than the
6 Parties, their respective successors and assigns permitted hereby, and Participants to the extent
7 provided in Section 10.06(d)) any legal or equitable right, remedy or claim under or by reason of
8 this Agreement.

9
10 (b) Assignments by Lenders. Any Lender may at any time assign to one or
11 more assignees all or a portion of its rights and obligations under this Agreement (including all
12 or a portion of its commitment and the Loans at the time owing to it); *provided* that any such
13 assignment shall be subject to the following conditions:

14 (i) *Minimum Amounts*.

15 (A) in the case of an assignment of the entire remaining amount
16 of the assigning Lender's commitment and/or the Loans at
17 the time owing to it, no minimum amount need be
18 assigned; and

19 (B) in any case not described in Section 10.06(b)(i)(A), the
20 principal outstanding balance of the Loans of the assigning
21 Lender subject to each such assignment (determined as of
22 the date the Assignment and Assumption Agreement made
23 pursuant to an Assignment and Assumption Agreement in
24 the form of Exhibit E hereto (the "**Assignment and**
25 **Assumption Agreement**") with respect to such assignment
26 is delivered to the Agent or, if "**Trade Date**" is specified in
27 the Assignment and Assumption Agreement, as of the
28 Trade Date) shall not be less than [REDACTED]
29 [REDACTED]), unless each of the Agent and, so long as no
30 Event of Default has occurred and is continuing, the
31 Borrower otherwise consents.

32 (ii) *Proportionate Amounts*. Each partial assignment shall be made as
33 an assignment of a proportionate part of all the assigning Lender's rights and obligations
34 under this Agreement with respect to the Loan assigned.

35 (iii) *Required Consents*. No consent shall be required for any
36 assignment except to the extent required by Section 10.06(b)(i)(B) and, in addition:

37 (A) the consent of the Borrower (such consent not to be
38 unreasonably withheld or delayed) shall be required unless
39 (x) an Event of Default has occurred and is continuing at
40 the time of such assignment, or (y) such assignment is to an
41 Initial Lender that has been an Initial Lender from and
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1 since the Effective Date or is an affiliate of such an Initial
2 Lender which is majority-owned and controlled by such
3 Initial Lender or any corporation controlling such Initial
4 Lender; and
5

6 (B) the consent of the Agent (such consent not to be
7 unreasonably withheld or delayed) shall be required for
8 assignments in respect of the Loans and/or commitments if
9 such assignment is to a Person that is not a Lender or an
10 affiliate of such Lender which is majority-owned and
11 controlled by such Lender or any corporation controlling
12 such Lender.
13

14 (iv) *Assignment and Assumption Agreement.* The parties to each
15 assignment shall execute and deliver to the Agent an Assignment and Assumption
16 Agreement, together with a processing and recordation fee of [REDACTED] provided that
17 the Agent may, in its sole discretion, elect to waive such processing and recordation fee
18 in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the
19 Agent an Administrative Questionnaire.
20

21 (v) *No Assignment to Certain Persons.* No such assignment shall be
22 made to (A) the Borrower or any of the Borrower's affiliates or Subsidiaries or (B) to any
23 Defaulting Lender or any of its affiliates or Subsidiaries, or any Person who, upon
24 becoming a Lender hereunder, would constitute any of the foregoing Persons described in
25 this clause (B).
26

27 (vi) *No Assignment to Natural Persons.* No such assignment shall be
28 made to a natural Person.
29

30 (vii) *Certain Additional Payments.* In connection with any assignment
31 of rights and obligations of any Defaulting Lender hereunder, no such assignment shall
32 be effective unless and until, in addition to the other conditions thereto set forth herein,
33 the Defaulting Lender or its assignee shall make such additional payments to the Agent in
34 an aggregate amount sufficient, upon distribution thereof as appropriate (which may be
35 outright payment, purchases by the assignee of participations, or other compensating
36 actions, including funding, with the consent of the Borrower and the Agent, the
37 applicable pro rata share of Loans previously requested but not funded by the Defaulting
38 Lender, to each of which the applicable assignee and assignor hereby irrevocably
39 consent), to (x) pay and satisfy in full all payment liabilities then owed by such
40 Defaulting Lender to the Agent and each other Lender hereunder (and interest accrued
41 thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans in
42 accordance with its Pro Rata Share. Notwithstanding the foregoing, in the event that any
43 assignment of rights and obligations of any Defaulting Lender hereunder shall become
44 effective under applicable law without compliance with the provisions of this paragraph,
45 then the assignee of such interest shall be deemed to be a Defaulting Lender for all
46 purposes of this Agreement until such compliance occurs.

1 Subject to acceptance and recording thereof by the Agent pursuant to Section 10.06(c),
2 from and after the effective date specified in each Assignment and Assumption
3 Agreement, the assignee thereunder shall be a party to this Agreement and, to the extent
4 of the interest assigned by such Assignment and Assumption Agreement, shall have the
5 rights and obligations of (as applicable) a Lender under this Agreement, and the assigning
6 Lender thereunder shall, to the extent of the interest assigned by such Assignment and
7 Assumption Agreement, be released from its obligations under this Agreement (and, in
8 the case of an Assignment and Assumption Agreement covering all of the assigning
9 Lender's rights and obligations under this Agreement, such Lender shall cease to be a
10 Party hereto) but (i) shall continue to be entitled to the benefits of Article 3, Section 9.05,
11 Section 10.03 and Section 10.04 with respect to facts and circumstances occurring prior
12 to the effective date of such assignment, and (ii) shall continue to be obligated in respect
13 of any liabilities or obligations that expressly survive any such assignment; *provided*, that
14 except to the extent otherwise expressly agreed by each affected Party no assignment by a
15 Defaulting Lender will constitute a waiver or release of any claim of any Party hereunder
16 arising from the assigning Lender having been a Defaulting Lender. Any assignment or
17 transfer by a Lender of rights or obligations under this Agreement that does not comply
18 with this paragraph shall be treated for purposes of this Agreement as a sale by such
19 Lender of a participation in such rights and obligations in accordance with
20 Section 10.06(d). The Agent agrees to promptly notify the Borrower of each assignment
21 or transfer by a Lender of rights or obligations under this Agreement.
22

23 (c) Register. The Agent, acting solely for this purpose as a non-fiduciary
24 agent of the Borrower, shall maintain at one of its offices in the United States a copy of each
25 Assignment and Assumption Agreement delivered to it and a register for the recordation of the
26 names and addresses of Lenders, and the commitments of, and principal amounts (and stated
27 interest) of the Loans owing to, each of the Lenders pursuant to the terms hereof from time to
28 time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and
29 the Borrower, the Agent and Lenders shall treat each Person whose name is recorded in the
30 Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement.
31 The Register shall be available for inspection by the Borrower and any Lender, at any reasonable
32 time and from time to time upon reasonable prior notice. Except as registered in accordance
33 with this Section 10.06(c), the Borrower shall not be obligated to recognize or treat any assignee
34 of any interest or with respect to the commitments or any Loans as a Lender or Person otherwise
35 entitled to assert, enforce or otherwise participate in any rights or benefits with respect thereto or
36 hereunder.
37

38 (d) Participations. A Lender may sell or agree to sell to one or more other
39 Persons (other than the Borrower or any of its Affiliates) a participation in all or any part of any
40 Loans held by it, or in its Commitment, *provided* that no purchaser of a participation (a
41 "**Participant**") shall have any rights or benefits under this Agreement or any Note (the
42 Participant's rights against such Lender in respect of such participation to be those set forth the
43 agreements executed by such Lender in favor of the Participant). All amounts payable by the
44 Borrower to any Lender in respect of Loans held by it, and its Commitment, shall be determined
45 as if such Lender had not sold or agreed to sell any participation in such Loans and Commitment,
46 and as if such Lender were funding each of such Loan and Commitment in the same way that it
47 is funding the portion of such Loan and Commitment in which no participation has been sold. In

1 no event shall a Lender that sells a participation agree with the Participant to take or refrain from
2 taking any action hereunder or under any other Loan Document except that such Lender may
3 agree with the Participant that it will not, without the consent of the Participant, agree to
4 (i) increase or extend the term, or extend the time or waive any requirement for the reduction or
5 termination of such Lender's related Commitment, (ii) extend the date fixed for the payment of
6 principal or interest on the related Loan or Loans, or any portion of any fee hereunder payable to
7 the Participant, (iii) reduce the amount of any such payment of principal, (iv) reduce the rate at
8 which interest is payable thereon, or any fee hereunder payable to the Participant, to a level
9 below the rate at which the Participant is entitled to participate in such interest or fee, (v) alter
10 the rights or obligations of the Borrower to repay the related Loans, or (vi) consent to any
11 modification, supplement or waiver hereof to the extent that the same, under Section 10.01,
12 requires the consent of each of the Lenders. Each of the Lenders that sells a participation shall,
13 acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on
14 which it enters the name and address of each Participant and the principal amounts (and stated
15 interest) of each Participant's interest in the Loans or other obligations under the Loan
16 Documents (the "**Participant Register**"); *provided* that no Lender shall have any obligation to
17 disclose all or any portion of the Participant Register (including the identity of any Participant or
18 any information relating to a Participant's interest in any commitments, loans, letters of credit or
19 its other obligations under any Loan Document) to any Person except to the extent that such
20 disclosure is necessary to establish that such commitment, loan, letter of credit or other
21 obligation is in registered form under Section 5f.103-1(c) of the United States Treasury
22 Regulations. The entries in the Participant Register shall be conclusive absent manifest error,
23 and such Lender shall treat each Person whose name is recorded in the Participant Register as the
24 owner of such participation for all purposes of this Agreement notwithstanding any notice to the
25 contrary. For the avoidance of doubt, the Agent (in its capacity as the Agent) shall have no
26 responsibility for maintaining a Participant Register.

27
28 (e) Certain Pledges. Any Lender may at any time pledge or assign a security
29 interest in all or any portion of its rights under this Agreement to secure obligations of such
30 Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank;
31 *provided* that no such pledge or assignment shall release such Lender from any of its obligations
32 hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

33
34 (f) Disclosure. The Borrower agrees that any Lender may disclose
35 information obtained by such Lender pursuant to this Agreement to assignees, participants or
36 counterparties to any swap or derivative transaction relating to the transactions contemplated
37 pursuant to this Agreement and potential assignees or participants hereunder or counterparties as
38 aforesaid; *provided* that such assignees, participants or counterparties or potential assignees,
39 participants or counterparties shall agree (i) to preserve the confidentiality of such information
40 pursuant to a confidentiality agreement that provides for the same terms set forth in
41 Section 10.07, (ii) not to disclose such information to a third party, and (iii) not to make use of
42 such information for purposes of transactions unrelated to such contemplated assignment or
43 participation.

44
45 Section 10.07. Confidentiality. The Agent and each Lender agrees to hold any
46 confidential information that it may receive from the Borrower or any of its Subsidiaries
47 pursuant to this Agreement or any of the Loan Documents or in connection with any transaction
48

1 contemplated herein or therein in confidence except for disclosure: (a) to its affiliates, officers,
2 directors, employees, consultants, advisors, attorneys, accountants, auditors and other agents
3 deemed reasonably necessary to effectuate the transaction contemplated herein or therein;
4 provided that such parties shall be advised of the requirement to maintain the confidentiality of
5 such information and the Agent or Lender, as the case may be, shall be responsible for any such
6 party's breach of such confidentiality agreement; (b) to regulatory officials having jurisdiction
7 over the Agent or such Lender, or financial regulatory bodies claiming oversight over the Agent
8 or such Lender; (c) as required by applicable law or legal process (provided that in the event the
9 Agent or any Lender is so required to disclose any such confidential information, the Agent or
10 any such Lender shall endeavor to notify promptly the Borrower so that the Borrower may seek a
11 protective order or other appropriate remedy if not prohibited by law and if practicable to do
12 under the circumstances); (d) to any assignee or participant or any potential assignee or
13 participant, provided that such parties shall be advised of the requirement to maintain the
14 confidentiality of such information and shall agree to the provisions hereof; (e) in connection
15 with the exercise of any remedies hereunder or any suit, action or proceeding relating to this
16 Agreement or the enforcement of rights hereunder and (f) subject to an agreement containing
17 provisions substantially the same as those of this Section, to any direct or indirect contractual
18 counterparty or prospective counterparty (or such contractual counterparty's or prospective
19 counterparty's professional advisor) to any credit derivative transaction relating to obligations of
20 the Borrower. For purposes of this Agreement (x) the term "confidential information" means all
21 information respecting the Borrower and its Subsidiaries, or any of them, other than (i)
22 information previously filed with any governmental or quasi governmental agency, authority,
23 board, bureau, commission, department, instrumentality or public body or which is otherwise
24 available to the public, (ii) information which is delivered by the Borrower to the Agent or any
25 Lender that it expressly identifies as non confidential, (iii) information previously published in
26 any public medium from a source other than, directly or indirectly, the Agent or any Lender, and
27 (iv) information which is received by the Agent or any Lender from any third party which the
28 Agent or such Lender reasonably believes, after due inquiry, was not and is not, violating any
29 obligation of confidentiality to the Borrower and (y) "affiliate" means, with respect to any
30 Lender any Person which is majority-owned and controlled by such Lender or any corporation
31 controlling such Lender.
32

33 Section 10.08. Governing Law; Jurisdiction. THIS AGREEMENT AND EACH OF
34 THE OTHER LOAN DOCUMENTS, EXCEPT AS OTHERWISE SPECIFICALLY
35 PROVIDED THEREIN, ARE CONTRACTS UNDER THE LAWS OF THE STATE OF NEW
36 YORK AND SHALL FOR ALL PURPOSES BE CONSTRUED IN ACCORDANCE WITH
37 AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD
38 TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREUNDER (OTHER THAN §5-1401
39 OF THE NEW YORK GENERAL OBLIGATIONS LAW). THE PARTIES AGREE THAT
40 ANY SUIT FOR THE ENFORCEMENT OF THIS AGREEMENT OR ANY OF THE OTHER
41 LOAN DOCUMENTS SHALL ONLY BE BROUGHT IN THE COURTS OF THE STATE
42 AND COUNTY OF NEW YORK OR ANY FEDERAL COURT SITTING IN THE BOROUGH
43 OF MANHATTAN, NEW YORK, AND CONSENT TO THE EXCLUSIVE JURISDICTION
44 OF SUCH COURTS AND THE SERVICE OF PROCESS IN ANY SUCH SUIT BEING
45 MADE UPON THE RELEVANT PARTIES BY MAIL AT THEIR RESPECTIVE
46 ADDRESSES IN ACCORDANCE WITH SECTION 10.02. EACH PARTY HEREBY
47 WAIVES ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE

1 VENUE OF ANY SUCH SUIT OR ANY SUCH COURT OR THAT SUCH SUIT IS
2 BROUGHT IN AN INCONVENIENT FORUM
3

4 Section 10.09. Headings. The captions in this Agreement are for convenience of
5 reference only and shall not define or limit the provisions hereof.
6

7 Section 10.10. Counterparts. This Agreement and any amendment hereof may be
8 executed in several counterparts and by each Party on a separate counterpart, each of which
9 when so executed and delivered shall be an original, and all of which together shall constitute
10 one instrument. In proving this Agreement it shall not be necessary to produce or account for
11 more than one such counterpart signed by the Party against whom enforcement is sought.
12 Delivery of an executed counterpart of a signature page to this Agreement by telecopy
13 transmission or by emailing a pdf file shall be effective as delivery of a manually executed
14 counterpart of this Agreement.
15

16 Section 10.11. Entire Agreement. The Loan Documents and any other documents
17 executed in connection herewith or therewith express the entire understanding of the Parties with
18 respect to the transactions contemplated hereby. Neither this Agreement nor any term hereof
19 may be changed, waived, discharged or terminated, except as provided in *Section 10.01*.
20

21 Section 10.12. Severability. The provisions of this Agreement are severable and if any
22 one clause or provision hereof shall be held invalid or unenforceable in whole or in part in any
23 jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or
24 part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in
25 any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.
26

27 Section 10.13. Third Party Beneficiaries. None of the provisions of this Agreement shall
28 operate or are intended to operate for the benefit of, any Person other than the Parties hereto, and
29 no other Person shall have any rights under or with respect hereto (except to the limited extent
30 expressly provided for with respect to any Indemnitee under *Section 10.04*).
31

32 Section 10.14. USA Patriot Act Notice. The Agent (for itself and not on behalf of any of
33 the Lenders) and each Lender hereby notifies the Borrower that pursuant to the requirements of
34 the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"),
35 it is required to obtain, verify and record information that identifies the Borrower, which
36 information includes the name and address of the Borrower and other information that will allow
37 the Agent and such Lender to identify the Borrower in accordance with the Act.
38

39 Section 10.15. No Fiduciary Duties. The Borrower agrees that in connection with all
40 aspects of the transactions contemplated hereby and any communications in connection
41 therewith, the Borrower and its affiliates, on the one hand, and the Agent, the Lender and their
42 respective affiliates, on the other hand, will have a business relationship that does not create, by
43 implication or otherwise, any fiduciary duty on the part of the Agent, and the Lenders or their
44 respective affiliates.
45

46 Section 10.16. Electronic Records. The Borrower hereby acknowledges the receipt of a
47 copy of this Agreement. The Agent and each Lender may, on behalf of the Borrower, create a
48 microfilm or optical disk or other electronic image of this Agreement and may store the

1 electronic image of this Agreement in its electronic form and then destroy the paper original as
2 part of the Agent or any Lender's normal business practices, with the electronic image deemed to
3 be an original.
4

5 Section 10.17. WAIVER OF JURY TRIAL. THE BORROWER, THE AGENT AND
6 EACH LENDER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL
7 WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN
8 CONNECTION WITH THIS AGREEMENT, THE NOTES OR ANY OF THE OTHER LOAN
9 DOCUMENTS, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER OR
10 THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. THE BORROWER (A)
11 CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE AGENT OR
12 ANY LENDER HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE AGENT
13 OR ANY LENDER WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE
14 THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT THE AGENT AND EACH
15 LENDER HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER
16 LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE WAIVER AND
17 CERTIFICATIONS CONTAINED IN THIS SECTION 10.17.
18

19 Section 10.18. Acknowledgement and Consent to Bail-In of EEA Financial Institutions.
20 Notwithstanding anything to the contrary in any Loan Document or any other agreement,
21 arrangement or understanding among any such parties, each party hereto acknowledges that any
22 liability of any EEA Financial Institution arising under any Loan Document, to the extent such
23 liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA
24 Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:
25

- 26 (a) the application of any Write-Down and Conversion Powers by an EEA Resolution
27 Authority to any such liabilities arising hereunder which may be payable by it to any
28 party hereto that is an EEA Financial Institution; and
29
- 30 (b) the effects of any Bail-In Action on any such liability, including, if applicable:
31
- 32 (i) a reduction in full or in part or cancellation of any such liability;
 - 33
 - 34 (ii) a conversion of all, or a portion of, such liability into shares or other instruments
35 of ownership in such EEA Financial Institution, its parent undertaking, or a bridge
36 institution that may be issued to it or otherwise conferred on it, and that such
37 shares or other instruments of ownership will be accepted by it in lieu of any
38 rights with respect to any such liability under this Agreement or any other Loan
39 Documents;
 - 40
 - 41 (iii) the variation of the terms of such liability in connection with the exercise of the
42 Write-Down and Conversion Powers of any EEA Resolution Authority.
43
44

45 **IN WITNESS WHEREOF**, the undersigned have duly executed this Agreement as a
46 sealed instrument as of the date first set forth above.

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[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

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GULF POWER COMPANY

By: 
Paul I. Cutler
Treasurer



[Redacted], as
Administrative Agent and Lender

16
17 23
18

By: [Redacted]
Name: [Redacted]
Title: [Redacted]

STATE OF Y\|eJ\|f a.19)
20) ss.
COUNTY OF 1 215)
22

Personally appeared before me, the undersigned, a Notary Public in and for said County, [Redacted], to me known and known to me, who, being by me first duly sworn, declared that he/she is a [Redacted] of [Redacted] that being duly authorized he/she did execute the foregoing instrument before me for the purposes set forth therein.

IN WITNESS WHEREOF, I have hereto set my hand and official seal at
— 'this-1L day of: Dece,mbr; 2019.

[Redacted Signature]

My Commission Expires:

By: [Redacted]
Name: [Redacted]
Title: [Redacted]

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**SCHEDULE I
TO TERM LOAN AGREEMENT**

LENDER

<p>[REDACTED]</p> <p>Lending Office and Address for Notices for all Loans:</p> <p>[REDACTED]</p>	<p>\$200,000,000.00</p>
--	-------------------------

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**SCHEDULE 4.03
TO TERM LOAN AGREEMENT**

3

PERMITTED LIENS

- 4 1. Liens to secure taxes, assessments and other government charges or claims for labor,
5 material or supplies in respect of obligations not overdue;
6
- 7 2. Deposits or pledges made in connection with, or to secure payment of, workmen's
8 compensation, unemployment insurance, old age pensions or other social security
9 obligations;
10
- 11 3. Liens of carriers, warehousemen, mechanics and materialmen, and other like liens, which
12 liens do not individually or in the aggregate have a materially adverse effect on the
13 business of the Borrower; and
14
- 15 4. Encumbrances consisting of easements, rights of way, zoning restrictions, restrictions on
16 the use of real property and defects and irregularities in the title thereto, landlord's or
17 lessor's liens under leases to which the Borrower or any of its Subsidiaries is a party, and
18 other minor liens or encumbrances none of which in the opinion of the Borrower
19 interferes materially with the use of the property affected in the ordinary conduct of the
20 business of the Borrower, which defects, liens and other encumbrances do not
21 individually or in the aggregate have a materially adverse effect on the business of the
22 Borrower.

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**SCHEDULE 4.04
TO TERM LOAN AGREEMENT**

SUPPLEMENTAL DISCLOSURES

[None.]

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**SCHEDULE 4.06
TO TERM LOAN AGREEMENT**

LITIGATION

[None.]

1 EXIDBIT A TO AGREEMENT

2
3 [Form of Borrowing Notice]

4
5
6 BORROWING NOTICE

7
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9
10 [Date]



12
13
14 Ladies and Gentlemen:

15
16 The undersigned, GULF POWER COMPANY, a Florida corporation (the "Borrower"),
17 refers to the Term Loan Agreement, dated as of December 13, 2019 (as amended or modified
18 from time to time, the "Credit Agreement", the terms defined therein being used herein as therein
19 defined), among the undersigned, the Lenders party thereto and _____, as
20 Administrative Agent (the "Agent") and Lender, and hereby requests a borrowing of a Loan
21 under the Agreement, and in that connection sets forth below the information relating to the
22 borrowing (the "Proposed Borrowing") as required by *Section 2.02(a)* of the Agreement.

- 23
24 (i) The Business Day of the Proposed Borrowing is _____.
- 25
26 (ii) The Proposed Borrowing is a Eurodollar Rate Loan with an initial Interest Period
27 of _____
- 28 (iii) The aggregate amount of the Proposed Borrowing is US\$ _____

29
30 The undersigned hereby certifies that the following statements are true on the date hereof,
31 and will be true on the date of the Proposed Borrowing:

- 32
33 (A) No Default shall have occurred and be continuing or will occur upon the making
34 of the Proposed Borrowing, and
- 35
36 (B) Each of the representations and warranties contained in the Credit Agreement, the
37 other Loan Documents or in any document or instrument delivered pursuant to or
38 in connection with the Credit Agreement will be true in all material respects as of
39 the time of the making of the Proposed Borrowing with the same effect as if made
40 at and as of that time (except to the extent that such representations and warranties
41 relate expressly to an earlier date).
- 42
43
44

1 The proceeds of the Proposed Borrowing should be wire transferred to the Borrower in
2 accordance with the following wire transfer instructions:

3
4 Name of Bank: Bank of America N.A.
5 Street Address of Bank: 100 West 33rd Street
6 City/State of Bank: New York, NY
7 ABA Number of Bank: [REDACTED]
8 SWIFT: [REDACTED]
9 Name of Account: Gulf Power Company
10 Account Number at Bank: [REDACTED]

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13 *[SIGNATURE APPEARS ON THE FOLLOWING PAGE]*
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Very truly yours,

GULF POWER COMPANY

By: _____
Paul I. Cutler
Treasurer

[Gulf Power Company / [REDACTED] - Term Loan Credit - Signature Page - Borrowing Notice]

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EXHIBIT B TO AGREEMENT

[Form of Note]

NOTE

\$200,000,000.00

Dated: December 13, 2019

FOR VALUE RECEIVED, the undersigned, GULF POWER COMPANY, a Florida corporation (hereinafter, together with its successors in title and assigns, called "**Borrower**"), by this promissory note (hereinafter called "**this Note**"), absolutely and unconditionally promises to pay to the order of [REDACTED] (hereinafter, together with its successors in title and permitted assigns, called "**Lender**" or "**Holder**"), the principal sum of TWO HUNDRED MILLION DOLLARS AND NO/100 DOLLARS (\$200,000,000.00), or the aggregate unpaid principal amount of the Loan evidenced by this Note made by Lender to Borrower pursuant to the Agreement (as hereinafter defined), whichever is less, on the Maturity Date (as defined in the Agreement), and to pay interest on the principal sum outstanding hereunder from time to time from the Effective Date until the said principal sum or the unpaid portion thereof shall have been paid in full.

The unpaid principal (not at the time overdue) of this Note shall bear interest at the annual rate from time to time in effect under the Agreement referred to below (the "**Applicable Rate**"). Accrued interest on the unpaid principal under this Note shall be payable on the dates, and in the manner, specified in the Agreement.

On the Maturity Date there shall become absolutely due and payable by Borrower hereunder, and the Borrower hereby promises to pay to the Holder (as hereinafter defined) hereof, the balance (if any) of the principal hereof then remaining unpaid, all of the unpaid interest accrued hereon and all (if any) other amounts payable on or in respect of this Note or the indebtedness evidenced hereby.

Overdue principal of the Loans, and to the extent permitted by applicable law, overdue interest on the Loans and all other overdue amounts payable under this Note, shall bear interest payable on demand in the case of (i) overdue principal of or overdue interest on any Loan, at a rate per annum equal to two percent (2%) above the rate then applicable to such Loan, and (ii) any other overdue amounts, at a rate per annum equal to two percent (2%) above the Base Rate, in each case until such amount shall be paid in full (after, as well as before, judgment).

Each payment of principal, interest or other sum payable on or in respect of this Note or the indebtedness evidenced hereby shall be made by the Borrower directly to the Agent at the Agent's office, as provided in the Agreement, for the account of the Holder, not later than 2:00 p.m., New York, New York time, on the due date of such payment. All payments on or in respect of this Note or the indebtedness evidenced hereby shall be made without set-off or counterclaim and free and clear of and without any deduction of any kind for any taxes, levies, fees, deductions withholdings, restrictions or conditions of any nature, except as expressly set forth in *Section 3.10* and *Section 8.02* of the Agreement.

1 Absent manifest error, a certificate or statement signed by an authorized officer of Lender shall
2 be conclusive evidence of the amount of principal due and unpaid under this Note as of the date
3 of such certificate or statement.
4

5 This Note is made and delivered by the Borrower to the Lender pursuant to that certain Term
6 Loan Agreement, dated as of December 13, 2019, among the Borrower, the lenders party thereto,
7 and [REDACTED] as Administrative Agent and Lender (such agreement, as
8 originally executed, or, if varied or supplemented or amended and restated from time to time
9 hereafter, as so varied or supplemented or amended and restated, called the “**Agreement**”). This
10 Note evidences the obligations of Borrower (a) to repay the principal amount of the Loans made
11 by Lender to Borrower under the Agreement, (b) to pay interest, as provided in the Agreement on
12 the principal amount hereof remaining unpaid from time to time, and (c) to pay other amounts
13 which may become due and payable hereunder as provided herein and in the Agreement.
14

15 No reference herein to the Agreement, to any of the Schedules or Exhibits annexed thereto, or to
16 any of the Loan Documents or to any provisions of any thereof, shall impair the obligations of
17 the Borrower, which are absolute, unconditional and irrevocable, to pay the principal of and the
18 interest on this Note and to pay all (if any) other amounts which may become due and payable on
19 or in respect of this Note or the indebtedness evidenced hereby, strictly in accordance with the
20 terms and the tenor of this Note.
21

22 All capitalized terms used herein and defined in the Agreement shall have the same meanings
23 herein as therein. For all purposes of this Note, “**Holder**” means the Lender or any other person
24 who is at the time the lawful holder in possession of this Note.
25

26 Pursuant to, and upon the terms contained in the Agreement, the entire unpaid principal of this
27 Note, all of the interest accrued on the unpaid principal of this Note and all (if any) other
28 amounts payable on or in respect of this Note or the indebtedness evidenced hereby may be
29 declared to be or may automatically become immediately due and payable, whereupon the entire
30 unpaid principal of this Note and all (if any) other amounts payable on or in respect of this Note
31 or the indebtedness evidenced hereby shall (if not already due and payable) forthwith become
32 and be due and payable to the Holder of this Note without presentment, demand, protest, notice
33 of protest or any other formalities of any kind, all of which are hereby expressly and irrevocably
34 waived by the Borrower.
35

36 All computations of interest payable as provided in this Note shall be determined in accordance
37 with the terms of the Agreement.
38

39 Should all or any part of the indebtedness represented by this Note be collected by action at law,
40 or in bankruptcy, insolvency, receivership or other court proceedings, or should this Note be
41 placed in the hands of attorneys for collection after default, the Borrower hereby promises to pay
42 to the Holder of this Note, upon demand by the Holder at any time, in addition to principal,
43 interest and all (if any) other amounts payable on or in respect of this Note or the indebtedness
44 evidenced hereby, all court costs and reasonable attorneys’ fees (including, without limitation,
45 such reasonable fees of any in-house counsel) and all other reasonable collection charges and
46 expenses incurred or sustained by the Holder.
47
48

1 The Borrower hereby irrevocably waives notices of acceptance, presentment, notice of non-
2 payment, protest, notice of protest, suit and all other conditions precedent in connection with the
3 delivery, acceptance, collection and/or enforcement of this Note.
4

5 THE BORROWER HEREBY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO
6 ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH
7 THIS NOTE, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE
8 OF SUCH RIGHTS AND OBLIGATIONS.
9

10 This Note is intended to take effect as a sealed instrument.
11

12 This Note and the obligations of the Borrower hereunder shall be governed by and interpreted
13 and determined in accordance with the laws of the State of New York.
14

15 *[SIGNATURE APPEARS ON THE FOLLOWING PAGE]*
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1 IN WITNESS WHEREOF, this Note has been duly executed by GULF POWER COMPANY, on
2 the day and in the year first above written.
3

4 **GULF POWER COMPANY**
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8 By: _____
9 Paul I. Cutler
10 Treasurer
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44 [Gulf Power Company / █████ - Term Loan Agreement - Signature Page - Note]
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EXIDBIT C TO AGREEMENT

[Form of Interest Rate Notice]

INTEREST RATE NOTICE

[Date]



Ladies and Gentlemen:

Pursuant to *Section 2.06* of that certain Term Loan Agreement, dated as of December 13, 2019 (as amended or modified from time to time, the "Credit Agreement", the terms defined therein being used herein as therein defined), among the undersigned, the Lenders party thereto and _____, as Administrative Agent and Lender, the Borrower hereby gives you irrevocable notice of its request to convert the Loan(s) and/or Interest Periods currently under effect under the Credit Agreement as follows *[select from the following as applicable]*:

- on [date], to convert \$[] of the aggregate outstanding principal amount of the Loan(s) bearing interest at the Eurodollar Rate into a Base Rate Loan; [and/or]
- on [date], to convert \$[] of the aggregate outstanding principal amount of the Loan(s) bearing interest at the Base Rate into a Eurodollar Rate Loan having an Interest Period of [] month(s) ending on [date]; [and/or]
- on [date], to continue \$[] of the aggregate outstanding principal amount of the Loan(s) bearing interest at the Eurodollar Rate, as a Eurodollar Rate Loan having an Interest Period of [] month(s) ending on [date].

Any capitalized terms used in this notice which are defined in the Credit Agreement have the meanings specified for those terms in the Credit Agreement.

[Signature Appears on Following Page]

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Very truly yours,

GULF POWER COMPANY

By: _____
Name:
Title:

[Gulf Power Company / [REDACTED] - Term Loan Agreement - Signature Page - Interest Rate Notice]

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4. Agent: [REDACTED] as the administrative agent under the Credit Agreement

5. Credit Agreement: The [REDACTED] Credit Agreement dated as of December 13, 2019 among Gulf Power Company, Lenders that are parties thereto and [REDACTED] as the Agent

6. Assigned Interest:

Assignor	Assignee	Facility Assigned ¹	Aggregate Amount of Commitment/Loans for all Lenders ²	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment / Loans ³	CUSIP Number
			\$	\$	%	
			\$	\$	%	
			\$	\$	%	

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[7. Trade Date: _____]4

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1 Fill in the appropriate terminology for the types of facilities under the Credit Agreement that are being assigned under this Assignment

2 Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

3 Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder

4 To be completed if the Assignor and the Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.

45

1
2 Effective Date: _____, 20 [TO BE INSERTED BY THE AGENT AND
3 WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE
4 REGISTER THEREFOR.]
5

6 The terms set forth in this Assignment and Assumption Agreement are hereby agreed to:
7
8

9 **ASSIGNOR**

10 [NAME OF ASSIGNOR]

11 By: _____

12 Title:
13
14

15 **ASSIGNEE**

16 [NAME OF ASSIGNEE]

17 By: _____

18 Title:
19
20

21 [Consented to and]5 Accepted:
22

23  as
24 Agent
25

26 By: _____
27 Title:
28

29 [Consented to:]6
30
31

32 By: _____
33 Title:
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49 _____
50 5 To be added only if the consent of the Agent is required by the terms of the Credit Agreement.

51 6 To be added only if the consent of the Borrower and/or other parties is required by the terms of the Credit
52 Agreement.

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION AGREEMENT

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption Agreement and to consummate the transactions contemplated hereby and (iv) it [is / is not] a Defaulting Lender; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or affiliates or any other Person obligated in respect of any Loan Document, or (iv) the performance or observance by the Borrower, any of its Subsidiaries or affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption Agreement and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 10.06(b)(iii), (v) and (vi) of the Credit Agreement (subject to such consents, if any, as may be required under Section 10.06(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 6.04 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption Agreement and to purchase the Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment and Assumption Agreement and to purchase the Assigned Interest, and (vii) if it is organized under the laws of a jurisdiction outside of the United States attached to the Assignment and Assumption Agreement is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the

1 obligations which by the terms of the Loan Documents are required to be performed by it as a
2 Lender.
3

4 2. Payments. From and after the Effective Date, the Agent shall make all payments
5 in respect of the Assigned Interest (including payments of principal, interest, fees and other
6 amounts) to the Assignee whether such amounts have accrued prior to, on or after the Effective
7 Date. The Assignor and the Assignee shall make all appropriate adjustments in payments by the
8 Agent for periods prior to the Effective Date or with respect to the making of this assignment
9 directly between themselves. Notwithstanding the foregoing, the Administrative Agent shall
10 make all payments of interest, fees or other amounts paid or payable in kind from and after the
11 Effective Date to the Assignee.
12

13 3. General Provisions. This Assignment and Assumption Agreement shall be
14 binding upon, and inure to the benefit of, the parties hereto and their respective successors and
15 assigns. This Assignment and Assumption Agreement may be executed in any number of
16 counterparts, which together shall constitute one instrument. Delivery of an executed counterpart
17 of a signature page of this Assignment and Assumption Agreement by telecopy shall be effective
18 as delivery of a manually executed counterpart of this Assignment and Assumption Agreement.
19 This Assignment and Assumption Agreement shall be governed by, and construed in accordance
20 with, the law of the State of New York.

1 and the law of the State of Florida and the State of New York insofar as they bear on the matters
2 covered hereby.
3

4 We have reviewed only the Operative Documents and the other documents and
5 instruments described in Schedule II attached hereto and made a part hereof (together with the
6 Operative Documents, the "Documents") and have made no other investigation or inquiry. We
7 have also relied, without additional investigation, upon the facts set forth in the representations
8 made by the Borrower in the Documents.
9

10 In our examination of the foregoing and in rendering the following opinions, in addition
11 to the assumptions contained elsewhere in this letter, we have, with your consent, assumed
12 without investigation (and we express no opinion regarding the following):
13

14 (a) the genuineness of all signatures (other than signatures of the Borrower on the
15 Operative Documents) and the legal capacity of all individuals who executed Documents
16 individually or on behalf of any of the parties thereto, the accuracy and completeness of each
17 Document submitted for our review, the authenticity of all Documents submitted to us as
18 originals, the conformity to original Documents of all Documents submitted to us as certified or
19 photocopies and the authenticity of the originals of such copies;
20

21 (b) that each of the parties to the Operative Documents (other than the Borrower) is a
22 duly organized or created, validly existing entity in good standing under the laws of the
23 jurisdiction of its organization or creation;
24

25 (c) the due execution and delivery of the Operative Documents by all parties thereto
26 (other than the Borrower);
27

28 (d) that all parties to the Operative Documents (other than the Borrower) have the
29 power and authority to execute and deliver the Operative Documents, as applicable, and to
30 perform their respective obligations under the Operative Documents, as applicable;
31

32 (e) that each of the Operative Documents is the legal, valid and binding obligation of
33 each party thereto (other than the Borrower), enforceable in each case against each such party in
34 accordance with the respective terms of the applicable Operative Documents;
35

36 (f) that the conduct of the parties to the Operative Documents has complied with all
37 applicable requirements of good faith, fair dealing and conscionability;
38

39 (g) that there are no agreements or understandings among the parties, written or oral,
40 and there is no usage of trade or course of prior dealing among the parties that would, in either
41 case, define, supplement or qualify the terms of any of the Operative Documents (except as
42 specifically set forth in the Operative Documents); and
43

44 (h) that none of the addressees of this letter know that the opinions set forth herein
45 are incorrect and there has not been any mutual mistake of fact or misunderstanding, fraud,
46 duress or undue influence relating to the matters which are the subject of our opinions.

1 As used in the opinions expressed herein, the phrase “to our knowledge” refers only to
2 the actual current knowledge of those attorneys in our firm who have given substantive attention
3 to the Borrower in connection with the transaction contemplated pursuant to the Credit
4 Agreement (the “Transaction”) and does not (i) include constructive notice of matters or
5 information, or (ii) imply that we have undertaken any independent investigation (a) with any
6 persons outside our firm, or (b) as to the accuracy or completeness of any factual representation
7 or other information made or furnished in connection with the Transaction. Furthermore, such
8 reference means only that we do not know of any fact or circumstance contradicting the
9 statement that follows the reference, and does not imply that we know the statement to be correct
10 or have any basis (other than the Documents) for that statement.
11

12 Based solely upon our examination and consideration of the Documents, and in reliance
13 thereon, and in reliance upon the factual representations contained in the Documents, and our
14 consideration of such matters of law and fact as we have considered necessary or appropriate for
15 the expression of the opinions contained herein, and subject to the limitations, qualifications and
16 assumptions expressed herein, we are of the opinion that:
17

18 1. The Borrower is validly existing as a corporation under the laws of the State of
19 Florida and its status is active. The Borrower has the requisite corporate power and authority to
20 execute, deliver and perform the Operative Documents to which it is a party.
21

22 2. The execution, delivery and performance of the Operative Documents entered
23 into by the Borrower have been duly authorized by all necessary corporate action of the
24 Borrower and the Operative Documents to which the Borrower is a party has been duly executed
25 and delivered by the Borrower.
26

27 3. Each of the Operative Documents to which the Borrower is a party constitutes a
28 valid and binding obligation of the Borrower enforceable against the Borrower in accordance
29 with its terms.
30

31 4. The execution and delivery of the Operative Documents to which the Borrower is
32 a party and the consummation by the Borrower of the transactions contemplated in the Operative
33 Documents to which the Borrower is a party will not conflict with or constitute a breach or
34 violation of any of the terms or provisions of, or constitute a default under (A) the Articles of
35 Incorporation of the Borrower, as amended, or the Bylaws, as amended, of the Borrower (B) any
36 existing federal, New York or Florida statute or any rule or regulation thereunder (in each case
37 other than (i) any Excluded Laws, as to which no opinion is expressed and (ii) any Applicable
38 Energy Laws, which are addressed in paragraph 6 below) of any federal, New York or Florida
39 governmental agency or body having jurisdiction over the Borrower, except where the same
40 would not have a material adverse effect on the business, properties or financial condition of the
41 Borrower, a material adverse effect on the ability of the Borrower to perform its obligations
42 under the Operative Documents or a material adverse effect on the validity or enforceability of
43 the Operative Documents, assuming that the aggregate principal amount of the Loans and all
44 other applicable indebtedness, equity securities and all other liabilities and obligations as
45 guarantor, endorser or surety of the Borrower at any one time outstanding would not exceed the
46 limits set forth in the FPSC Financing Order, (C) require any consent, approval, authorization or
47 other order of any federal, New York or Florida court, regulatory body, administrative agency or

1 other federal, New York or Florida governmental body having jurisdiction over the Borrower (in
2 each case other than under (i) any Excluded Laws as to which no opinion is expressed and (ii)
3 any Applicable Energy Laws, which are addressed in paragraph 6 below), except those which
4 have been obtained on or prior to the date hereof and assuming that the aggregate principal
5 amount of the Loans and all other applicable indebtedness, equity securities and all other
6 liabilities and obligations as guarantor, endorser or surety of the Borrower at any one time
7 outstanding would not exceed the limits set forth in the FPSC Financing Order, (D) to our
8 knowledge, conflict with or constitute a breach of any of the terms or provisions of, or a default
9 under, any material agreement or material instrument to which the Borrower is a party or by
10 which the Borrower or its properties are bound, or (E) to our knowledge, result in the creation or
11 imposition of any Lien upon any of the material properties or assets of the Borrower pursuant to
12 the terms of any mortgage, indenture, agreement or instrument to which the Borrower is a party
13 or by which it is bound, except as contemplated in any of the Operative Documents.
14

15 5. The Borrower is not an “investment company”, as such term is defined in the
16 Investment Company Act of 1940.
17

18 6. The execution and delivery of the Operative Documents to which the Borrower is
19 a party and the consummation by the Borrower of the transactions contemplated in the Operative
20 Documents to which the Borrower is a party will not (A) constitute a breach or violation by the
21 Borrower of any Applicable Energy Law, or (B) require any consent, approval, authorization or
22 other order of any U.S. federal regulatory body, administrative agency or other U.S. federal
23 governmental body having jurisdiction over the Borrower pursuant to any Applicable Energy
24 Law.
25

26 The opinions set forth above are subject to the following qualifications:
27

28 A. The enforceability of the Operative Documents may be limited or affected
29 by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance,
30 fraudulent transfer or other laws affecting creditors’ rights generally, considerations of
31 public policy and by general principles of equity including, without limitation, concepts
32 of materiality, reasonableness, good faith and fair dealing and the possible unavailability
33 of specific performance or injunctive relief, regardless of whether considered in a
34 proceeding in equity or at law. Without limiting the generality of the foregoing, we
35 express no opinion concerning:
36

37 (i) any purported waiver of legal rights of the Borrower under any of
38 the Operative Documents, or any purported consent thereunder, relating to the
39 rights of the Borrower (including, without limitation, marshaling of assets,
40 reinstatement and rights of redemption, if any), or duties owing to either of them,
41 existing as a matter of law (including, without limitation, any waiver of any
42 provision of the Uniform Commercial Code in effect in the State of New York
43 and the State of Florida) except to the extent the Borrower may so waive and has
44 effectively so waived (whether in any of the Operative Documents or otherwise);
45 or

1 (ii) any provisions in any of the Operative Documents (a) restricting
2 access to legal or equitable redress or otherwise, requiring submission to the
3 jurisdiction of the courts of a particular state where enforcement thereof is
4 deemed to be unreasonable in light of the circumstances or waiving any rights to
5 object to venue or inconvenient forum, (b) providing that any other party's course
6 of dealing, delay or failure to exercise any right, remedy or option under any of
7 the Operative Documents shall not operate as a waiver, (c) purporting to establish
8 evidentiary standards for suits or proceedings to enforce any of the Operative
9 Documents, (d) allowing any party to declare indebtedness to be due and payable,
10 in any such case without notice, (e) providing for the reimbursement by the
11 non-prevailing party of the prevailing party's legal fees and expenses; (f) with
12 respect to the enforceability of the indemnification provisions in any of the
13 Operative Documents which may be limited by applicable laws or public policy,
14 (g) providing that forum selection clauses are binding on the court or courts in the
15 forum selected, (h) limiting judicial discretion regarding the determination of
16 damages and entitlement to attorneys' fees and other costs, (i) which deny a party
17 who has materially failed to render or offer performance required by any of the
18 Operative Documents the opportunity to cure that failure unless permitting a cure
19 would unreasonably hinder the non-defaulting party from making substitute
20 arrangements for performance or unless it was important in the circumstances to
21 the non-defaulting party that performance occur by the date stated in the
22 agreement, or (j) which purport to waive any right to trial by jury.
23

24 B. The foregoing opinions are subject to applicable laws with respect to
25 statutory limitations of the time periods for bringing actions.
26

27 C. We express no opinion as to the subject matter jurisdiction of any United
28 States federal court to adjudicate any claim relating to any Operative Documents where
29 jurisdiction based on diversity of citizenship under 28 U.S.C. §1332 does not exist.
30

31 This opinion is limited to the matters stated herein and no opinions may be implied or
32 inferred beyond the matters expressly stated herein. We have assumed no obligation to advise
33 you or any other Person who may be permitted to rely on the opinions expressed herein as
34 hereinafter set forth beyond the opinions specifically expressed herein.
35

36 The opinions expressed herein are as of this date, and we assume no obligation to update
37 or supplement our opinions to reflect any facts or circumstances which may come to our
38 attention or any changes in law which may occur.
39

40 This opinion is provided to the addressee for its benefit and the benefit of any Person that
41 becomes a Lender in accordance with the provisions of the Agreement, and is provided only in
42 connection with the Transaction and may not be relied upon in any respect by any other Person
43 or for any other purpose. Without our prior written consent, this opinion letter may not be
44 quoted in whole or in part or otherwise referred to in any document or report and may not be
45 furnished to any Person (other than a Person that becomes a Lender in accordance with the
46 provisions of the Agreement), *provided that*, if requested by regulators having oversight over the
47 addressee, the addressee may furnish copies of this opinion to such regulators so long as such

1 regulators do not rely on this opinion in any respect.

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Very truly yours,

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SQUIRE PATTON BOGGS (US) LLP

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SCHEDULE I

TO

OPINION OF SQUIRE PATTON BOGGS (US) LLP

List of Operative Documents

- (1) Term Loan Agreement, dated as of December 13, 2019, by and among the Borrower, the lenders parties thereto from time to time and [REDACTED], as Administrative Agent (the "Agreement").
- (2) Certificate of the Borrower, dated as of December 13, 2019.

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SCHEDULE II

TO

OPINION OF SQUIRE PATTON BOGGS (US) LLP

List of Supporting Documents

- (1) Constituent Documents – Gulf Power Company:
 - (a) Certificate of the Secretary of the Borrower, with respect to (i) Articles of Incorporation of the Borrower, as amended, (ii) the Bylaws of the Borrower, as amended, (iii) the active status of the Borrower in the State of Florida, and (iv) the resolutions of the Board of Directors of the Borrower approving the transactions contemplated pursuant to the Operative Documents.
 - (b) Certificate of the Secretary of the Borrower, with respect to the incumbency and specimen signatures of the officers of the Borrower executing the Operative Documents on behalf of the Borrower.
 - (c) Officer’s Certificate of the Borrower made pursuant to the resolutions of the Board of Directors of the Borrower.
- (2) The FPSC Financing Order.

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EXHIBIT G-1

U.S. TAX COMPLIANCE CERTIFICATE

**(For Foreign Lenders
That Are Not Partnerships for U.S. Federal Income Tax Purposes)**

Reference is hereby made to that certain Term Loan Agreement, dated as of December 13, 2019 (the “**Credit Agreement**”), between Gulf Power Company (as the “**Borrower**”), the Lenders party thereto and [REDACTED], as Administrative Agent and Lender (the “**Agent**”).

Pursuant to the provisions of *Section 3.09* of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Agent and the Borrower, and (2) the undersigned shall have at all times furnished the Agent and the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name:

Title:

Date: _____, 201[]

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EXHIBIT G-2

U.S. TAX COMPLIANCE CERTIFICATE

**(For Foreign Participants
That Are Not Partnerships for U.S. Federal Income Tax Purposes)**

Reference is hereby made to that certain Term Loan Agreement, dated as of December 13, 2019 (the “**Credit Agreement**”), between Gulf Power Company (as the “**Borrower**”), the Lenders party thereto and [REDACTED], as Administrative Agent and Lender (the “**Agent**”).

Pursuant to the provisions of *Section 3.09* of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN-E (or W-8BEN, as applicable). By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name:

Title:

Date: _____, 201[]

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EXHIBIT G-3

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants
That Are Partnerships for U.S. Federal Income Tax Purposes)

Reference is hereby made to that certain Term Loan Agreement, dated as of December 13, 2019 (the “**Credit Agreement**”), between Gulf Power Company (as the “**Borrower**”), the Lenders party thereto and [REDACTED], as Administrative Agent and Lender (the “**Agent**”).

Pursuant to the provisions of *Section 3.09* of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name:

Title:

Date: _____, 201[]

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EXHIBIT G-4

U.S. TAX COMPLIANCE CERTIFICATE

**(For Foreign Lenders
That Are Partnerships for U.S. Federal Income Tax Purposes)**

Reference is hereby made to that certain Term Loan Agreement, dated as of December 13, 2019 (the “**Credit Agreement**”), between Gulf Power Company (as the “**Borrower**”), the Lenders party thereto and [REDACTED], as Administrative Agent and Lender (the “**Agent**”).

Pursuant to the provisions of *Section 3.09* of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN-E (or W-8BEN, as applicable) or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN-E (or W-8BEN, as applicable) from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Agent and the Borrower, and (2) the undersigned shall have at all times furnished the Agent and the Borrower with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name:

Title:

Date: _____, 201[]

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Exhibit 2 (c)

September 30, 2019



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10 Re: Gulf Power Company US\$300,000,000 Term Loan Facility

11 Ladies and Gentlemen:

12 This opinion is furnished to you pursuant to *Section 6.01(e)* of that certain Tern Loan
13 Agreement, dated as of September 30, 2019 (the "Credit Agreement"), among GULF POWER
14 COMPANY, a Florida corporation (the "Borrower"), the lenders parties thereto from time to time
15 and _____, as Administrative Agent (the "Agent"). This opinion is furnished
16 to you at the request of the Borrower. Capitalized terms defined in the Credit Agreement and not
17 otherwise defined herein have the meanings set forth therein.

18
19 We have acted as special counsel to the Borrower, in connection with the documents
20 described in *Schedule I* attached hereto and made a part hereof (the "Operative Documents").
21

22 We have made such examinations of the federal law of the United States and the laws of
23 the State of Florida and the State of New York as we have deemed relevant for purposes of this
24 opinion, and solely for the purposes of the opinions in paragraph 6, the Public Utility Holding
25 Company Act of 2005 and the Federal Power Act (the Public Utility Holding Company Act of
26 2005 and the Federal Power Act and the rules and regulations issued thereunder being referred to
27 herein as the "Applicable Energy Laws"), and have not made any independent review of the law
28 of any other state or other jurisdiction; provided however, we have made no investigation as to,
29 and we express no opinion with respect to, any securities or blue sky laws, any state or federal tax
30 laws, or any matters relating to the Applicable Energy Laws (except for the purposes of the opinion
31 in paragraph 6), the Public Utility Regulatory Policies Act of 1978, the Energy Policy Act of 2005,
32 or the rules and regulations under any of the foregoing. Additionally, the opinions contained herein
33 shall not be construed as expressing any opinion regarding local statutes, ordinances, administrative
34 decisions, or regarding the rules and regulations of counties, towns, municipalities or special
35 political subdivisions (whether created or enabled through legislative action at the state or regional
36 level), or regarding judicial decisions to the extent they deal with any of the foregoing
37 (collectively, "Excluded Laws"). Subject to the foregoing provisions of this paragraph, the opinions
38 expressed herein are limited solely to the federal law of the United States and the law of the State
39 of Florida and the State of New York insofar as they bear on the matters covered hereby.

We have reviewed only the Operative Documents and the other documents and instruments described in *Schedule II* attached hereto and made a part hereof (together with the Operative Documents, the "Documents") and have made no other investigation or inquiry. We have also relied, without additional investigation, upon the facts set forth in the representations made by the Borrower in the Documents.

In our examination of the foregoing and in rendering the following opinions, in addition to the assumptions contained elsewhere in this letter, we have, with your consent, assumed without investigation (and we express no opinion regarding the following):

- (a) the genuineness of all signatures (other than signatures of the Borrower on the Operative Documents) and the legal capacity of all individuals who executed Documents individually or on behalf of any of the parties thereto, the accuracy and completeness of each Document submitted for our review, the authenticity of all Documents submitted to us as originals, the conformity to original Documents of all Documents submitted to us as certified or photocopies and the authenticity of the originals of such copies;
- (b) that each of the parties to the Operative Documents (other than the Borrower) is a duly organized or created, validly existing entity in good standing under the laws of the jurisdiction of its organization or creation;
- (c) the due execution and delivery of the Operative Documents by all parties thereto (other than the Borrower);
- (d) that all parties to the Operative Documents (other than the Borrower) have the power and authority to execute and deliver the Operative Documents, as applicable, and to perform their respective obligations under the Operative Documents, as applicable;
- (e) that each of the Operative Documents is the legal, valid and binding obligation of each party thereto (other than the Borrower), enforceable in each case against each such party in accordance with the respective terms of the applicable Operative Documents;
- (f) that the conduct of the parties to the Operative Documents has complied with all applicable requirements of good faith, fair dealing and conscionability;
- (g) that there are no agreements or understandings among the parties, written or oral, and there is no usage of trade or course of prior dealing among the parties that would, in either case, define, supplement or qualify the terms of any of the Operative Documents (except as specifically set forth in the Operative Documents); and
- (h) that none of the addressees of this letter know that the opinions set forth herein are incorrect and there has not been any mutual mistake of fact or misunderstanding, fraud, duress or undue influence relating to the matters which are the subject of our opinions.

As used in the opinions expressed herein, the phrase "to our knowledge" refers only to the actual current knowledge of those attorneys in our firm who have given substantive attention to the Borrower in connection with the transaction contemplated pursuant to the Credit Agreement

(the "Transaction") and does not (i) include constructive notice of matters or information, or (ii) imply that we have undertaken any independent investigation (a) with any persons outside our firm, or (b) as to the accuracy or completeness of any factual representation or other information made or furnished in connection with the Transaction. Furthermore, such reference means only that we do not know of any fact or circumstance contradicting the statement that follows the reference, and does not imply that we know the statement to be correct or have any basis (other than the Documents) for that statement.

Based solely upon our examination and consideration of the Documents, and in reliance thereon, and in reliance upon the factual representations contained in the Documents, and our consideration of such matters of law and fact as we have considered necessary or appropriate for the expression of the opinions contained herein, and subject to the limitations, qualifications and assumptions expressed herein, we are of the opinion that:

1. The Borrower is validly existing as a corporation under the laws of the State of Florida and its status is active. The Borrower has the requisite corporate power and authority to execute, deliver and perform the Operative Documents to which it is a party.
2. The execution, delivery and performance of the Operative Documents entered into by the Borrower have been duly authorized by all necessary corporate action of the Borrower and the Operative Documents to which the Borrower is a party has been duly executed and delivered by the Borrower.
3. Each of the Operative Documents to which the Borrower is a party constitutes a valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms.
4. The execution and delivery of the Operative Documents to which the Borrower is a party and the consummation by the Borrower of the transactions contemplated in the Operative Documents to which the Borrower is a party will not conflict with or constitute a breach or violation of any of the terms or provisions of, or constitute a default under (A) the Articles of Incorporation of the Borrower, as amended, or the Bylaws, as amended, of the Borrower (B) any existing federal, New York or Florida statute or any rule or regulation thereunder (in each case other than (i) any Excluded Laws, as to which no opinion is expressed and (ii) any Applicable Energy Laws, which are addressed in paragraph 6 below) of any federal, New York or Florida governmental agency or body having jurisdiction over the Borrower, except where the same would not have a material adverse effect on the business, properties or financial condition of the Borrower, a material adverse effect on the ability of the Borrower to perform its obligations under the Operative Documents or a material adverse effect on the validity or enforceability of the Operative Documents, (C) require any consent, approval, authorization or other order of any federal, New York or Florida court, regulatory body, administrative agency or other federal, New York or Florida governmental body having jurisdiction over the Borrower (in each case other than under (i) any Excluded Laws as to which no opinion is expressed and (ii) any Applicable Energy Laws, which are addressed in paragraph 6 below), except those which have been obtained on or prior to the date hereof, (D) to our knowledge, conflict with or constitute a breach of any of the terms or provisions of, or a default under, any material agreement or material instrument to which

the Borrower is a party or by which the Borrower or its properties are bound, or (E) to our knowledge, result in the creation or imposition of any Lien upon any of the material properties or assets of the Borrower pursuant to the terms of any mortgage, indenture, agreement or instrument to which the Borrower is a party or by which it is bound, except as contemplated in any of the Operative Documents.

5. The Borrower is not an "investment company", as such term is defined in the Investment Company Act of 1940.

6. The execution and delivery of the Operative Documents to which the Borrower is a party and the consummation by the Borrower of the transactions contemplated in the Operative Documents to which the Borrower is a party will not (A) constitute a breach or violation by the Borrower of any Applicable Energy Law, or (B) require any consent, approval, authorization or other order of any U.S. federal regulatory body, administrative agency or other U.S. federal governmental body having jurisdiction over the Borrower pursuant to any Applicable Energy Law.

The opinions set forth above are subject to the following qualifications:

A. The enforceability of the Operative Documents may be limited or affected by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, fraudulent transfer or other laws affecting creditors' rights generally, considerations of public policy and by general principles of equity including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law. Without limiting the generality of the foregoing, we express no opinion concerning:

(i) any purported waiver of legal rights of the Borrower under any of the Operative Documents, or any purported consent thereunder, relating to the rights of the Borrower (including, without limitation, marshaling of assets, reinstatement and rights of redemption, if any), or duties owing to either of them, existing as a matter of law (including, without limitation, any waiver of any provision of the Uniform Commercial Code in effect in the State of New York and the State of Florida) except to the extent the Borrower may so waive and has effectively so waived (whether in any of the Operative Documents or otherwise); or

(ii) any provisions in any of the Operative Documents (a) restricting access to legal or equitable redress or otherwise, requiring submission to the jurisdiction of the courts of a particular state where enforcement thereof is deemed to be unreasonable in light of the circumstances or waiving any rights to object to venue or inconvenient forum, (b) providing that any other party's course of dealing, delay or failure to exercise any right, remedy or option under any of the Operative Documents shall not operate as a waiver, (c) purporting to establish evidentiary standards for suits or proceedings to enforce any of the Operative Documents, (d) allowing any party to declare indebtedness to be due and payable, in any such case

without notice, (e) providing for the reimbursement by the non-prevailing party of the prevailing party's legal fees and expenses; (f) with respect to the enforceability of the indemnification provisions in any of the Operative Documents which may be limited by applicable laws or public policy, (g) providing that forum selection clauses are binding on the coullor courts in the forum selected, (h) limiting judicial discretion regarding the determination of damages and entitlement to attorneys' fees and other costs, (i) which deny a party who has materially failed to render or offer performance required by any of the Operative Documents the opportunity to cure that failure unless permitting a cure would unreasonably hinder the non-defaulting party from making substitute arrangements for performance or unless it was important in the circumstances to the non-defaulting party that performance occur by the date stated in the agreement, or G) which purport to waive any right to trial by jury .

B. The foregoing opinions are subject to applicable laws with respect to statutory limitations of the time periods for bringing actions.

C. We express no opinion as to the subject matter jurisdiction of any United States federal court to adjudicate any claim relating to any Operative Documents where jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332 does not exist.

This opinion is limited to the matters stated herein and no opinions may be implied or inferred beyond the matters expressly stated herein. We have assumed no obligation to advise you or any other Person who may be permitted to rely on the opinions expressed herein as hereinafter set forth beyond the opinions specifically expressed herein.

The opinions expressed herein are as of this date, and we assume no obligation to update or supplement our opinions to reflect any facts or circumstances which may come to our attention or any changes in law which may occur.

This opinion is provided to the addressee for its benefit and the benefit of any Person that becomes a Lender in accordance with the provisions of the Agreement, and is provided only in connection with the Transaction and may not be relied upon in any respect by any other Person or for any other purpose. Without our prior written consent, this opinion letter may not be quoted in whole or in part or otherwise referred to in any document or report and may not be furnished to any Person (other than a Person that becomes a Lender in accordance with the provisions of the Agreement), provided that, if requested by regulators having oversight over the addressee, the addressee may furnish copies of this opinion to such regulators so long as such regulators do not rely on this opinion in any respect.

Very truly yours,

Squire Patton Boggs (US) LLP

SQUIRE PATTON BOGGS (US) LLP

SCHEDULE I

TO

OPINION OF SQUIRE PATTON BOGGS (US) LLP

List of Operative Documents

- (1) Term Loan Agreement, dated as of September 30, 2019, by and among the Borrower, the lenders parties thereto from time to time and _____, as Administrative Agent (the "Agreement").
- (2) Certificate of the Borrower, dated as of September 30, 2019.

SCHEDULE II

TO

OPINION OF SQUIRE PATTON BOGGS (US) LLP

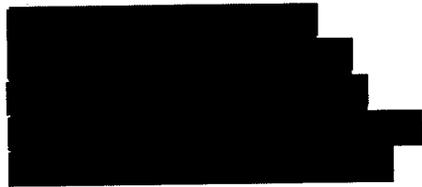
List of Supporting Documents

(1) Constituent Documents - Gulf Power Company:

- (a) Certificate of the Secretary of the Borrower, with respect to (i) Articles of Incorporation of the Borrower, as amended, (ii) the Bylaws of the Borrower, as amended, (iii) the active status of the Borrower in the State of Florida, and (iv) the resolutions of the Board of Directors of the Borrower approving the transactions contemplated pursuant to the Operative Documents.
- (b) Certificate of the Secretary of the Borrower, with respect to the incumbency and specimen signatures of the officers of the Borrower executing the Operative Documents on behalf of the Borrower.
- (c) Officer's Certificate of the Borrower made pursuant to the resolutions of the Board of Directors of the Borrower.

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14 December 13, 2019
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Exhibit 2 (d)



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20 Re: Gulf Power Company US\$200,000,000 Term Loan Facility

21 Ladies and Gentlemen:

22 This opinion is furnished to you pursuant to *Section 6.01(e)* of that certain Term Loan
23 Agreement, dated as of December 13, 2019 (the "Credit Agreement"), among GULF POWER
24 COMPANY, a Florida corporation (the "Borrower"), the lenders parties thereto from time to time
25 and _____, as Administrative Agent (the "Agent"). This opinion is
26 furnished to you at the request of the Borrower. Capitalized terms defined in the Credit Agreement
27 and not otherwise defined herein have the meanings set forth therein.
28

29 We have acted as special counsel to the Borrower, in connection with the documents
30 described in Schedule 1 attached hereto and made a part hereof (the "Operative Documents").
31

32 We have made such examinations of the federal law of the United States and the laws of
33 the State of Florida and the State of New York as we have deemed relevant for purposes of this
34 opinion, and solely for the purposes of the opinions in paragraph 6, the Public Utility Holding
35 Company Act of 2005 and the Federal Power Act (the Public Utility Holding Company Act of
36 2005 and the Federal Power Act and the rules and regulations issued thereunder being referred
37 to herein as the "Applicable Energy Laws"), and have not made any independent review of the
38 law of any other state or other jurisdiction; provided however, we have made no investigation as
39 to, and we express no opinion with respect to, any securities or blue sky laws, any state or federal
40 tax laws, or any matters relating to the Applicable Energy Laws (except for the purposes of the
41 opinion in paragraph 6), the Public Utility Regulatory Policies Act of 1978, the Energy Policy
42 Act of 2005, or the rules and regulations under any of the foregoing. Additionally, the opinions
43 contained herein shall not be construed as expressing any opinion regarding local statutes,
44 ordinances, administrative decisions, or regarding the rules and regulations of counties, towns,
45 municipalities or special political subdivisions (whether created or enabled through legislative
46 action at the state or regional level), or regarding judicial decisions to the extent they deal with
47 any of the foregoing (collectively, "Excluded Laws"). Subject to the foregoing provisions of this
48 paragraph, the opinions expressed herein are limited solely to the federal law of the United States

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50 47 Offices in 20 Countries

51 Squire Patton Boggs (US) LLP is part of the international legal practice Squire Patton Boggs, which operates worldwide through a number of separate
52 legal entities.

53 Please visit squirepattonboggs.com for more information.

54 010-8915-231111/AMERICAS

and the law of the State of Florida and the State of New York insofar as they bear on the matters covered hereby.

We have reviewed only the Operative Documents and the other documents and instruments described in *Schedule II* attached hereto and made a part hereof (together with the Operative Documents, the "Documents") and have made no other investigation or inquiry. We have also relied, without additional investigation, upon the facts set forth in the representations made by the Borrower in the Documents.

In our examination of the foregoing and in rendering the following opinions, in addition to the assumptions contained elsewhere in this letter, we have, with your consent, assumed without investigation (and we express no opinion regarding the following):

(a) the genuineness of all signatures (other than signatures of the Borrower on the Operative Documents) and the legal capacity of all individuals who executed Documents individually or on behalf of any of the parties thereto, the accuracy and completeness of each Document submitted for our review, the authenticity of all Documents submitted to us as originals, the conformity to original Documents of all Documents submitted to us as certified or photocopies and the authenticity of the originals of such copies;

(b) that each of the parties to the Operative Documents (other than the Borrower) is a duly organized or created, validly existing entity in good standing under the laws of the jurisdiction of its organization or creation ;

(c) the due execution and delivery of the Operative Documents by all parties thereto (other than the Borrower);

(d) that all parties to the Operative Documents (other than the Borrower) have the power and authority to execute and deliver the Operative Documents, as applicable, and to perform their respective obligations under the Operative Documents, as applicable;

(e) that each of the Operative Documents is the legal, valid and binding obligation of each party thereto (other than the Borrower), enforceable in each case against each such party in accordance with the respective terms of the applicable Operative Documents;

(f) that the conduct of the parties to the Operative Documents has complied with all applicable requirements of good faith, fair dealing and conscionability;

(g) that there are no agreements or understandings among the parties, written or oral, and there is no usage of trade or course of prior dealing among the parties that would, in either case, define, supplement or qualify the terms of any of the Operative Documents (except as specifically set forth in the Operative Documents); and

(h) that none of the addressees of this letter know that the opinions set forth herein are incorrect and there has not been any mutual mistake of fact or misunderstanding, fraud, duress or undue influence relating to the matters which are the subject of our opinions.

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3 As used in the opinions expressed herein, the phrase "to our knowledge" refers only to the
4 actual current knowledge of those attorneys in our firm who have given substantive attention to
5 the Borrower in connection with the transaction contemplated pursuant to the Credit Agreement
6 (the "Transaction") and does not (i) include constructive notice of matters or information, or (ii)
7 imply that we have undertaken any independent investigation (a) with any persons outside our
8 firm, or (b) as to the accuracy or completeness of any factual representation or other information
9 made or furnished in connection with the Transaction. Furthermore, such reference means only
10 that we do not know of any fact or circumstance contradicting the statement that follows the
11 reference, and does not imply that we know the statement to be correct or have any basis (other
12 than the Documents) for that statement.
13

14 Based solely upon our examination and consideration of the Documents, and in reliance
15 thereon, and in reliance upon the factual representations contained in the Documents, and our
16 consideration of such matters of law and fact as we have considered necessary or appropriate for
17 the expression of the opinions contained herein, and subject to the limitations, qualifications and
18 assumptions expressed herein, we are of the opinion that:
19

20 1. The Borrower is validly existing as a corporation under the laws of the State of
21 Florida and its status is active. The Borrower has the requisite corporate power and authority to
22 execute, deliver and perform the Operative Documents to which it is a party.
23

24 2. The execution, delivery and performance of the Operative Documents entered into
25 by the Borrower have been duly authorized by all necessary corporate action of the Borrower and
26 the Operative Documents to which the Borrower is a party has been duly executed and delivered
27 by the Borrower.
28

29 3. Each of the Operative Documents to which the Borrower is a party constitutes a
30 valid and binding obligation of the Borrower enforceable against the Borrower in accordance with
31 its terms.
32

33 4. The execution and delivery of the Operative Documents to which the Borrower is
34 a party and the consummation by the Borrower of the transactions contemplated in the Operative
35 Documents to which the Borrower is a party will not conflict with or constitute a breach or
36 violation of any of the terms or provisions of, or constitute a default under (A) the Articles of
37 Incorporation of the Borrower, as amended, or the Bylaws, as amended, of the Borrower (B) any
38 existing federal, New York or Florida statute or any rule or regulation thereunder (in each case
39 other than (i) any Excluded Laws, as to which no opinion is expressed and (ii) any Applicable
40 Energy Laws, which are addressed in paragraph 6 below) of any federal, New York or Florida
41 governmental agency or body having jurisdiction over the Borrower, except where the same
42 would not have a material adverse effect on the business, properties or financial condition of the
43 Borrower, a material adverse effect on the ability of the Borrower to perform its obligations under
44 the Operative Documents or a material adverse effect on the validity or enforceability of the
45 Operative Documents, assuming that the aggregate principal amount of the Loans and all other
46 applicable indebtedness, equity securities and all other liabilities and obligations as guarantor,
47 endorser or surety of the Borrower at any one time outstanding would not exceed the limits set

December 13, 2019

Page 4

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3 forth in the FPSC Financing Order, (C) require any consent, approval, authorization or other order
4 of any federal, New York or Florida court, regulatory body, administrative agency or other
5 federal, New York or Florida governmental body having jurisdiction over the Borrower (in each
6 case other than under (i) any Excluded Laws as to which no opinion is expressed and (ii) any
7 Applicable Energy Laws, which are addressed in paragraph 6 below), except those which have
8 been obtained on or prior to the date hereof and assuming that the aggregate principal amount of
9 the Loans and all other applicable indebtedness, equity securities and all other liabilities and
10 obligations as guarantor, endorser or surety of the Borrower at any one time outstanding would
11 not exceed the limits set forth in the FPSC Financing Order, (D) to our knowledge, conflict with
12 or constitute a breach of any of the terms or provisions of, or a default under, any material
13 agreement or material instrument to which the Borrower is a party or by which the Borrower or
14 its properties are bound, or (E) to our knowledge, result in the creation or imposition of any Lien
15 upon any of the material properties or assets of the Borrower pursuant to the terms of any
16 mortgage, indenture, agreement or instrument to which the Borrower is a party or by which it is
17 bound, except as contemplated in any of the Operative Documents.

18
19 5. The Borrower is not an "investment company", as such term is defined in the
20 Investment Company Act of 1940.

21
22 6. The execution and delivery of the Operative Documents to which the Borrower is
23 a party and the consummation by the Borrower of the transactions contemplated in the Operative
24 Documents to which the Borrower is a party will not (A) constitute a breach or violation by the
25 Borrower of any Applicable Energy Law, or (B) require any consent, approval, authorization or
26 other order of any U.S. federal regulatory body, administrative agency or other U.S. federal
27 governmental body having jurisdiction over the Borrower pursuant to any Applicable Energy
28 Law.

29
30 The opinions set forth above are subject to the following qualifications:

31
32 A. The enforceability of the Operative Documents may be limited or affected
33 by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance,
34 fraudulent transfer or other laws affecting creditors' rights generally, considerations of
35 public policy and by general principles of equity including, without limitation, concepts
36 of materiality, reasonableness, good faith and fair dealing and the possible unavailability
37 of specific performance or injunctive relief, regardless of whether considered in a
38 proceeding in equity or at law. Without limiting the generality of the foregoing, we
39 express no opinion concerning:

40
41 (i) any purported waiver of legal rights of the Borrower under any of
42 the Operative Documents, or any purported consent thereunder, relating to the
43 rights of the Borrower (including, without limitation, marshaling of assets,
44 reinstatement and rights of redemption, if any), or duties owing to either of them,
45 existing as a matter of law (including, without limitation, any waiver of any
46 provision of the Uniform Commercial Code in effect in the State of New York and
47 the State of Florida) except to the extent the Borrower may so waive and has

effectively so waived (whether in any of the Operative Documents or otherwise);
or

(ii)) any provisions in any of the Operative Documents (a) restricting access to legal or equitable redress or otherwise, requiring submission to the jurisdiction of the courts of a particular state where enforcement thereof is deemed to be unreasonable in light of the circumstances or waiving any rights to object to venue or inconvenient forum, (b) providing that any other party's course of dealing, delay or failure to exercise any right, remedy or option under any of the Operative Documents shall not operate as a waiver, (c) purporting to establish evidentiary standards for suits or proceedings to enforce any of the Operative Documents, (d) allowing any party to declare indebtedness to be due and payable, in any such case without notice, (e) providing for the reimbursement by the non-prevailing party of the prevailing party's legal fees and expenses; (f) with respect to the enforceability of the indemnification provisions in any of the Operative Documents which may be limited by applicable laws or public policy, (g) providing that forum selection clauses are binding on the court or courts in the forum selected, (h) limiting judicial discretion regarding the determination of damages and entitlement to attorneys' fees and other costs, (i) which deny a party who has materially failed to render or offer performance required by any of the Operative Documents the opportunity to cure that failure unless permitting a cure would unreasonably hinder the non-defaulting party from making substitute arrangements for performance or unless it was important in the circumstances to the non-defaulting party that performance occur by the date stated in the agreement, or (j) which purport to waive any right to trial by jury.

B. The foregoing opinions are subject to applicable laws with respect to statutory limitations of the time periods for bringing actions.

C. We express no opinion as to the subject matter jurisdiction of any United States federal court to adjudicate any claim relating to any Operative Documents where jurisdiction based on diversity of citizenship under 28 U.S.C. §1332 does not exist.

This opinion is limited to the matters stated herein and no opinions may be implied or inferred beyond the matters expressly stated herein. We have assumed no obligation to advise you or any other Person who may be permitted to rely on the opinions expressed herein as hereinafter set forth beyond the opinions specifically expressed herein.

The opinions expressed herein are as of this date, and we assume no obligation to update or supplement our opinions to reflect any facts or circumstances which may come to our attention or any changes in law which may occur.

This opinion is provided to the addressee for its benefit and the benefit of any Person that becomes a Lender in accordance with the provisions of the Agreement, and is provided only in connection with the Transaction and may not be relied upon in any respect by any other Person

December 13, 2019

Page 6

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or for any other purpose. Without our prior written consent, this opinion letter may not be quoted in whole or in part or otherwise referred to in any document or report and may not be furnished to any Person (other than a Person that becomes a Lender in accordance with the provisions of the Agreement), *provided that*, if requested by regulators having oversight over the addressee, the addressee may furnish copies of this opinion to such regulators so long as such regulators do not rely on this opinion in any respect.

Very truly yours,

SQUIRE PATTON BOGGS (US) LLP

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SCHEDULE I

TO

OPINION OF SQUIRE PATTON BOGGS (US) LLP

List of Operative Documents

- (1) Term Loan Agreement, dated as of December 13, 2019, by and among the Borrower, the lenders parties thereto from time to time and _____, as Administrative Agent (the "Agreement").
- (2) Certificate of the Borrower, dated as of December 13, 2019.

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SCHEDULE II

TO

OPINION OF SQUIRE PATTON BOGGS (US) LLP

List of Supporting Documents

- (1) Constituent Documents - Gulf Power Company:
- (a) Certificate of the Secretary of the Borrower, with respect to (i) Articles of Incorporation of the Borrower, as amended, (ii) the Bylaws of the Borrower, as amended, (iii) the active status of the Borrower in the State of Florida, and (iv) the resolutions of the Board of Directors of the Borrower approving the transactions contemplated pursuant to the Operative Documents.
 - (b) Certificate of the Secretary of the Borrower, with respect to the incumbency and specimen signatures of the officers of the Borrower executing the Operative Documents on behalf of the Borrower.
 - (c) Officer's Certificate of the Borrower made pursuant to the resolutions of the Board of Directors of the Borrower.
- (2) The FPSC Financing Order.

EXHIBIT C

COMPANY: Gulf Power Company
TITLE: Consummation Reports
DOCKET NO.: 20180162-EI
FILED: March 27, 2020

Description	No. of Pages	Conf. Y/N	Line No./ Col No.	Florida Statute 366.093(3) Subsection	Affiant
Term Loan #1: September 2019 Term Loan Agreement (Exhibit 1 (m))	101	Y	Pg. 1, Ln. 30	(d), (e)	Mitch Goldstein
		N	Pgs. 2-6		
		Y	Pg. 7, Ln. 7A	(d), (e)	
		Y	Pg. 7, Lns. 30-31	(d), (e)	
		Y	Pg. 8, Lns. 11-12	(d), (e)	
		Y	Pg. 9, Lns 18-27	(d), (e)	
		Y	Pg 10, Lns 1-2	(d), (e)	
		Y	Pg. 11, Lns 42-43	(d), (e)	
		Y	Pg. 12, Lns 1-2	(d), (e)	
		N	Pgs. 13		
		Y	Pg. 14, Lns. 22-31	(d), (e)	
		Y	Pg. 15, Lns. 1-15	(d), (e)	
		N	Pg. 16		
		Y	Pg. 17, Lns. 43-44	(d), (e)	
		Y	Pg. 18, Lns. 1-2	(d), (e)	
		N	Pg. 19		
		Y	Pg. 20, Lns. 34-37	(d), (e)	
		Y	Pg. 21, Lns. 1-2	(d), (e)	
		Y	Pg. 21, Lns. 8-9	(d), (e)	
		N	Pg. 22		
Y	Pg. 23, Ln. 23A	(d), (e)			
Y	Pg. 23, Ln 24A	(d), (e)			
Y	Pg. 23, Ln. 36A	(d), (e)			
Y	Pg. 23, Ln 37A	(d), (e)			

Description	No. of Pages	Conf. Y/N	Line No./ Col No.	Florida Statute 366.093(3) Subsection	Affiant
		N	Pg. 24	(d), (e)	
		Y	Pg. 25, Ln. 7-8	(d), (e)	
		Y	Pg. 25, Ln. 11-12	(d), (e)	
		Y	Pg. 26, Ln. 3A	(d), (e)	
		Y	Pg. 26, Ln. 3B	(d), (e)	
		Y	Pg. 26, Ln. 19A	(d), (e)	
		Y	Pg. 26, Ln. 19B	(d), (e)	
		Y	Pg. 26, Ln. 39A	(d), (e)	
		N	Pgs.27-43		
		Y	Pg. 44, Ln. 46-47	(d), (e)	
		Y	Pg. 45, Ln 1-3	(d), (e)	
		Y	Pg. 46, Ln 37-39	(d), (e)	
		N	Pg. 47		
		Y	Pg. 48, Ln. 1-6	(d), (e)	
		Y	Pg. 49, Ln.11A, 32-33, 41A	(d), (e)	
		Y	Pg. 50, Ln. 2A, 3A, and 36A	(d), (e)	
		Y	Pg. 51, Ln. 17A	(d), (e)	
		Y	Pg. 52, Ln. 23A	(d), (e)	
		N	Pgs. 53-57		
		Y	Pg.58, Ln. 29-30	(d), (e)	
		N	Pg. 59		
		Y	Pg. 60, Ln.24-27	(d), (e)	
		Y	Pg. 61, Ln. 20-21	(d), (e)	
		Y	Pg. 62, Ln. 6A	(d), (e)	
		N	Pgs. 63-68		
		Y	Pg.69, Ln. 24A, 27-29, 34A, 39A,40A, 44A, 45A, 47-51	(d), (e)	
		Y	Pg. 70, Ln. 4A, 5A	(d), (e)	

Description	No. of Pages	Conf. Y/N	Line No./ Col No.	Florida Statute 366.093(3) Subsection	Affiant
		N	Pg. 71-73		
		Y	Pg.74, Ln.10A, 17A	(d), (e)	
		N	Pgs.75-76		
		Y	Pg. 77, Ln. 11A	(d), (e)	
		Y	Pg. 78, Ln 7A	(d), (e)	
		N	Pgs. 79-80		
		Y	Pg.81, Ln. 10A, 19A	(d), (e)	
		N	Pg. 82		
		Y	Pg. 83, Ln. 13A	(d), (e)	
		Y	Pg. 84, Ln. 44	(d), (e)	
		N	Pg. 85		
		Y	Pg. 86, Ln. 1A, 2A, 6A	(d), (e)	
		Y	Pg. 87, Ln. 27A	(d), (e)	
		N	Pgs. 88-89		
		Y	Pg. 90, Ln. 9A, 18A	(d), (e)	
		N	Pgs. 91-95		
		Y	Pg. 96, Ln. 8A	(d), (e)	
		N	Pg. 97		
		Y	Pg. 98, Ln. 11A	(d), (e)	
		Y	Pg. 99, Ln. 11A	(d), (e)	
		Y	Pg. 100, Ln. 10A	(d), (e)	
		Y	Pg. 101, Ln. 10A	(d), (e)	
Term Loan #2: December 2019 Term Loan Agreement (Exhibit 1 (n))	103	Y	Pg. 1, Ln. 30	(d), (e)	Mitch Goldstein
		N	Pgs. 2-6		
		Y	Pg. 7, Ln. 7A, 30-32	(d), (e)	
		Y	Pg. 8, Ln. 11-13	(d), (e)	

Description	No. of Pages	Conf. Y/N	Line No./ Col No.	Florida Statute 366.093(3) Subsection	Affiant
		Y	Pg. 9, Ln. 19-27	(d), (e)	
		Y	Pg. 10, Ln. 1-3	(d), (e)	
		Y	Pg. 11, Ln. 42-43	(d), (e)	
		Y	Pg. 12, Ln. 1-3	(d), (e)	
		N	Pg. 13		
		Y	Pg. 14, Ln. 22-31	(d), (e)	
		Y	Pg. 15, Ln. 1-15	(d), (e)	
		N	Pg. 16		
		Y	Pg. 17, Ln. 43-44	(d), (e)	
		Y	Pg. 18, Ln. 1-3	(d), (e)	
		N	Pg. 19		
		Y	Pg. 20, Ln., 38-39	(d), (e)	
		Y	Pg. 21, Ln. 1-3, 8-9	(d), (e)	
		N	Pg. 22		
		Y	Pg. 23, Ln. 29A, 30A, 42A, 43A	(d), (e)	
		N	Pg. 24		
		Y	Pg. 25, Ln. 10-11, 14-15	(d), (e)	
		Y	Pg. 26, Ln 6A, 6B, 22A, 22B, 42A	(d), (e)	
		N	Pgs. 27-44		
		Y	Pg. 45, Ln. 12-20, 23-38	(d), (e)	
		N	Pg. 46		
		Y	Pg. 47, Ln. 3-4	(d), (e)	
		Y	Pg. 48, Ln 14-19	(d), (e)	
		Y	Pg. 49, Ln. 26A, 47A	(d), (e)	
		Y	Pg.50, Ln. 1A, 9A, 18A, 20A	(d), (e)	
		Y	Pg. 51, Ln. 4A, 31A	(d), (e)	
		Y	Pg. 52, Ln. 36A	(d), (e)	

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		N		(d), (e)	
		Y	Pgs. 53-57	(d), (e)	
		N	Pg. 58, Ln. 40-41		
		Y	Pg. 59	(d), (e)	
		Y	Pg. 60, Ln. 35-38	(d), (e)	
		Y	Pg. 61, Ln. 31-32	(d), (e)	
		Y	Pg. 62, Ln. 16A	(d), (e)	
		N			
		Y	Pg. 63-68	(d), (e)	
		Y	Pg. 69, Ln. 56	(d), (e)	
		Y	Pg. 70, Ln. 1-34	(d), (e)	
		Y	Pg. 71, Ln. 4-5	(d), (e)	
		N		(d), (e)	
		Y	Pg. 72-74	(d), (e)	
		N	Pg. 75, Ln. 10-11, 18A	(d), (e)	
		Y	Pg. 76	(d), (e)	
		Y	Pg. 77, Ln. 44	(d), (e)	
		Y	Pg. 78, Ln. 11A	(d), (e)	
		Y	Pg. 79, Ln. 7A	(d), (e)	
		N		(d), (e)	
		Y	Pg. 80	(d), (e)	
		Y	Pg. 81, Ln. 45A	(d), (e)	
		Y	Pg. 82, Ln. 10-11, 19A	(d), (e)	
		Y	Pg. 83, Ln. 46A	(d), (e)	
		Y	Pg. 84, Ln. 13A	(d), (e)	
		Y	Pg. 85, Ln. 44A	(d), (e)	
		N			
		Y	Pg. 86	(d), (e)	
		Y	Pg. 87, Ln. 1A, 4A, 6A	(d), (e)	
		N	Pg. 88, Ln. 23A	(d), (e)	
		Y	Pgs. 89-90	(d), (e)	
		N	Pg. 91, Ln. 9-10, 18A		

Description	No. of Pages	Conf. Y/N	Line No./ Col No.	Florida Statute 366.093(3) Subsection	Affiant
		Y N Y Y Y Y	Pgs. 92-96 Pg. 97, Ln. 8A Pg. 98 Pg. 99, Ln. 11A Pg. 100, Ln 11A Pg. 101, Ln. 10A Pg. 102, Ln. 10A	(d), (e) (d), (e) (d), (e) (d), (e) (d), (e)	
Squire Patton Boggs #1: Signed opinion of Gulf's legal counsel- September 2019 Term Loan Agreement (Exhibit 2 (c))	7	Y Y Y Y Y Y N	Pg. 1, Lns. 16-17, 25A Pg. 2, Ln. 1A Pg. 3, Ln. 1A Pg. 4, Ln. 1A Pg. 5, Ln. 1A Pg. 6, Ln. 5A Pg. 7	(d), (e) (d), (e) (d), (e) (d), (e) (d), (e) (d), (e) (d), (e)	Mitch Goldstein
Squire Patton Boggs #2: Signed opinion of Gulf's legal counsel- December 2019 Term Loan Agreement (Exhibit 2 (d))	8	Y Y Y Y Y Y Y N	Pg. 1, Lns. 16-17, 25A Pg. 2, Ln. 1 Pg. 3, Ln. 1 Pg. 4, Ln. 1 Pg. 5, Ln. 1 Pg. 6, Ln. 1 Pg. 7, Ln. 5A Pg. 8	(d), (e) (d), (e) (d), (e) (d), (e) (d), (e) (d), (e) (d), (e) (d), (e)	Mitch Goldstein

CERTIFICATE OF SERVICE
Docket No. 20180162-EI

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic service on this 27th day of March 2020 to the following:

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Florida Public Service Commission
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By: s/ Russell Badders

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