Relicensing Agreement

for the

Keowee-Toxaway Hydroelectric Project
FERC Project No. 2503

September 18, 2013

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STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

DUKE ENERGY CAROLINAS, LLC

AGREEMENT

THIS AGREEMENT ("Agreement" or "Relicensing Agreement"), made and entered into as of November 29, 2013, by and between DUKE ENERGY CAROLINAS, LLC, with its principal place of business in Mecklenburg County, North Carolina (the "Licensee"); ADVOCATES FOR QUALITY DEVELOPMENT, INC.; ANDERSON AREA CHAMBER OF COMMERCE; CITY OF SENECA; COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF GREENVILLE; FRIENDS OF LAKE KEOWEE SOCIETY, INC.; OCONEE COUNTY, SOUTH CAROLINA; PICKENS COUNTY, SOUTH CAROLINA; PICKENS COUNTY WATER AUTHORITY; SOUTH CAROLINA DEPARTMENT OF ARCHIVES AND HISTORY; SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES; SOUTH CAROLINA DEPARTMENT OF PARKS, RECREATION AND TOURISM; SOUTH CAROLINA WILDLIFE FEDERATION; THE CLIFFS AT KEOWEE VINEYARDS COMMUNITY ASSOCIATION, INC.; THE RESERVE AT LAKE KEOWEE; UPSTATE FOREVER; and WARPATH DEVELOPMENT, INC.; (collectively "Stakeholders"); (all referenced Stakeholders and the Licensee collectively "Parties" provided the duly authorized representative of each signs this Agreement), provides as follows:

WITNESSETH

WHEREAS, pursuant to a license issued by the Federal Energy Regulatory Commission ("FERC" or "Commission") (FERC Project No. 2503), the Licensee operates a hydroelectric power project, known as the Keowee-Toxaway Hydroelectric Project (the "Project") which is situated on the Keowee and Little Rivers in the South Carolina counties of Oconee and Pickens with a small portion extending into Transylvania County, North Carolina, the Project consisting primarily of the following major components. (See the Exhibit K drawings for the Existing License for the Project, which describe the Project Boundaries in more specific detail.)

a) The Jocassee Development consisting principally of a powerhouse, two saddle dikes, two intake structures, water conveyance tunnels, a gated spillway, and the Jocassee Dam impounding the Keowee River to form Lake Jocassee; and

b) The Keowee Development consisting principally of a powerhouse, an intake structure, gated concrete ogee spillway, four saddle dikes, the Keowee Dam impounding the Keowee River and the Little River Dam impounding the Little River, both of which form Lake Keowee; and

WHERAS, beginning in August 2009, the Licensee and the Stakeholders, plus EASTERN BAND OF CHEROKEE INDIANS, formally met as the Keowee-Toxaway Hydroelectric Project Stakeholder Team ("Team") to begin the process of developing a
The Keowee-Toxaway Hydroelectric Project (FERC No. 2503) Relicensing Agreement

A non-binding Agreement-in-Principle ("AIP") with regard to the issues related to the relicensing of the Project; and

WHEREAS, on March 11, 2011, the Licensee filed a timely Notice of Intent with the FERC to apply for a new license ("New License") for the Project; and

WHEREAS, by July 25, 2013, the Licensee and the Stakeholders signed the non-binding AIP concerning most substantive matters of interest to them related to the relicensing of the Project, and the Licensee and the Stakeholders indicated in said AIP their desire to work together to convert the AIP into this binding Agreement; and

WHEREAS, EASTERN BAND OF CHEROKEE INDIANS, by electing not to sign the AIP was not afforded the opportunity to participate in the development of this Agreement but was afforded the opportunity to become a Party; and

WHEREAS, SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, UNITED STATES ARMY CORPS OF ENGINEERS, and UNITED STATES FISH AND WILDLIFE SERVICE also participated in many of the meetings of the Team and were afforded the opportunity to become Parties to this Agreement; and

WHEREAS, on or before August 31, 2014, the Licensee will file an application, consistent with this Agreement in all respects, with the FERC for a New License for the Project; and

WHEREAS, the Licensee will include this Agreement and the accompanying Explanatory Statement in its Application for New License; and

WHEREAS, within 60 days following the FERC's issuance of its Notice of Ready for Environmental Analysis, the Licensee will file an application, consistent with this Agreement in all respects, with the South Carolina Department of Health and Environmental Control ("SCDHEC") for a Water Quality Certification for the Project pursuant to §401 of the Clean Water Act ("401 WQC"), as amended; and

WHEREAS, the Licensee, the United States Army Corps of Engineers ("USACE"), and the Southeastern Power Administration ("SEPA") are currently parties to a water storage balancing agreement ("1968 Agreement") requiring flow releases from the Keowee Development under certain circumstances and the 1968 Agreement will be replaced by a new agreement ("New Operating Agreement" or "NOA") to be negotiated in conjunction with relicensing of the Project and said NOA will not be inconsistent with this Agreement; and

WHEREAS, the Parties agree that generating power at the Project’s powerhouses and managing the reservoirs’ levels and flows for public water supply support, fish habitat, public recreation, and other purposes are all important uses of the limited waters of the Keowee and Little rivers and their tributaries, and that the terms of this Agreement strike a reasonable balance among these uses and provide a basis for the Parties' concurrence in the issuance of a New License for the Project to the Licensee, subject to the applicable terms, covenants, and provisions of this Agreement; and

WHEREAS, the Licensee’s Application for New License will include proposed facilities and actions to protect, mitigate, or enhance: public recreational opportunities at the Project’s reservoirs ("Project Reservoirs"), cultural resources, fish and wildlife resources, the regional economy, and other resource enhancement initiatives; and

WHEREAS, there are terms, phrases, and abbreviations specific to the Stakeholder Process that led to this Agreement and the significant terms, phrases, and abbreviations are defined in Appendix C; and
WHEREAS, the Parties agree that sharing the burden during periods of low inflow and maintenance and emergency conditions is important, and that the Low Inflow Protocol (“LIP”) for the Keowee-Toxaway Hydroelectric Project (Appendix D) and the Maintenance and Emergency Protocol (“MEP”) for the Keowee-Toxaway Hydroelectric Project (Appendix E) are reasonable compromises by the Parties to define operational changes during these time periods; and

WHEREAS, the maps included in Appendix F are intended solely to assist in describing the locations and boundaries of specific tracts of land, but are not of survey quality; and

WHEREAS, the Parties understand that certain governmental Parties have independent statutory responsibilities and processes that may result in mandates that are not consistent with the terms of this Agreement, and that it is nonetheless necessary to preserve the integrity and independence of those responsibilities and processes, and this Agreement specifically does so; and

WHEREAS, this Agreement is the culmination of the Parties’ desires, as set forth in the July 25, 2013, AIP, to draft from the AIP a binding agreement that embodies the intent of the Parties; and

WHEREAS, this Agreement faithfully sets forth in more detail and specificity, in contractual terms, the concepts described and to which the Parties agreed to in the AIP, with mutually agreeable adjustments as negotiated by the Parties after the AIP was signed; and

WHEREAS, the Parties have now reached full agreement on the resolution of all the material resource matters identified and at issue in the New License for the Project, specifically including but not limited to hydropower generation; watershed and hydro operation practices that protect and sustain the quality and quantity of the waters of the Keowee-Toxaway River Basin; a well-managed and adequate water supply to serve the region for years to come; safe and sufficient access for users of motorized and non-motorized boats and safe and sufficient areas for fishing, hiking, sightseeing, camping, and other public recreation opportunities; opportunities to support tourism; balanced shoreline uses to accommodate diverse interests including undisturbed areas; conservation of the fish and wildlife resources as well as the habitats supporting those resources; and protection of Historic Properties, all of which result in the Parties relinquishing certain arguments and potential outcomes in exchange for the certainty of the agreed-upon terms and conditions;

NOW, THEREFORE, IN CONSIDERATION of all other actions and undertakings as set forth herein below, the Parties contract and agree as follows.
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RESOURCE AGREEMENTS

The Parties agree that, except for the provisions in Appendix A, the provisions in this Agreement should not be incorporated into the terms of the New License that the FERC is expected to issue for the Project. The Parties have listed their proposed License Articles in each relevant section and have provided the specific language of the proposed License Articles in Appendix A.

1.0 Agreements on Full Consensus

1.1 The Parties acknowledge that: (i) they have participated fully in the activities of the Keowee-Toxaway Stakeholder Process and have a good understanding of the issues resolved herein; (ii) this Agreement is developed from and is consistent with the AIP signed by the Parties by July 25, 2013, except to the extent that it contains mutually agreeable adjustments as negotiated by the Parties after the AIP was signed; (iii) they are requesting that the FERC issue a license for the Project with a term of at least 40 years; (iv) they are in agreement with the entirety of this Agreement; (v) they understand the Licensee will file this Agreement with the FERC and the SCDHEC for these agencies’ consideration as they process applications for the New License and the 401 WQC for the Project; and (vi) the Licensee will also request that the FERC and the SCDHEC act consistently with the terms of this Agreement in issuing their licenses, certifications, and orders for the Project.

1.2 Actions of the Licensee

1.2.1 Application for New License – The Licensee shall develop and submit the Application for New License in a manner consistent with this Agreement and submit this Agreement with the Application for New License.

1.2.2 401 WQC – The Licensee shall submit its 401 WQC Request in a manner consistent with this Agreement and include this Agreement with the 401 WQC Request.

1.2.3 NOA – The Licensee shall negotiate with the USACE and the SEPA to replace the 1968 Agreement with a NOA that is not inconsistent with this Agreement.

1.2.4 Other Relicensing Filings – The Licensee shall ensure all other filings it makes as may be required for relicensing the Project are consistent with this Agreement.

1.3 Actions of Parties to this Agreement other than the Licensee

The Parties to this Agreement, excepting the Licensee, shall advocate for New License conditions, a 401 WQC, a NOA with the USACE and SEPA, and all other agency findings and documents associated with relicensing of the Project or implementation of the New License consistent with this Agreement by:

1.3.1 Submitting statements, individually or collectively, within open public comment periods for the Licensee’s submittals identified in Section 1.2 above requesting the relevant agencies take actions wholly consistent with this Agreement;
1.3.2 Undertaking reasonable efforts to obtain regulatory agency actions wholly consistent with this Agreement in a timely manner; and

1.3.3 Not supporting in any way entities seeking to obtain regulatory actions inconsistent with this Agreement or seeking to delay regulatory actions associated with relicensing of the Project.
2.0 Normal Operating Ranges for Reservoir Levels Agreements

Reservoir Elevations Article – The Parties recommend the proposed Reservoir Elevations License Article, the full text of which is provided in Appendix A of this Agreement, be incorporated verbatim into any New License the FERC may issue for the Project.
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3.0 Actions to Support Water User Needs Agreements

3.1 Low Inflow Protocol ("LIP") License Article – The Parties recommend the proposed Low Inflow Protocol for the Keowee-Toxaway Hydroelectric Project License Article, the full text of which is provided in Appendix A of this Agreement, be incorporated verbatim into any New License the FERC may issue for the Project.

3.2 Support of Relicensing Study Findings for Evaluating Proposed Increases in Water Withdrawal Amounts – The Parties acknowledge the water quantity effects of water intakes located in the Upper Savannah River Basin have been evaluated during the relicensing process based on the available facts, assumptions, and analytical methods and reported in the Water Supply Study, Final Report and Addenda, Keowee-Toxaway Hydroelectric Relicensing Project, December 5, 2012. This evaluation considered the capacities of existing water intakes and projected increases in withdrawals through the Year 2066. The Parties shall consider the results of this study when evaluating proposals for additional water use from the Project.

3.3 Protecting and Enhancing Usable Water Storage – The Licensee shall require all lake use permit applicants for new, expanded, or rebuilt water intakes (public, industrial, or power generation) to design and construct their water intakes to operate at full capacity with the lake drawn down to the hydro station operational limit (70 feet ("ft") local datum / 1080 ft above Mean Sea Level ("AMSL") for Lake Jocassee and 75 ft local datum / 775 ft AMSL for Lake Keowee). If a lake use permit applicant is unable to comply with this requirement, the Licensee shall require the lake use permit applicant to justify, to the satisfaction of the Licensee, a more shallow water intake with a feasibility evaluation conducted by a licensed professional engineer with water resources expertise, but the Licensee shall not authorize a new, expanded, or rebuilt water intake (public, industrial, or power generation) that requires a lake elevation to operate at full withdrawal capacity higher than the new Critical Reservoir Elevations defined in the LIP (Appendix D).

3.4 LIP

3.4.1 The Licensee shall file the LIP provided in Appendix D of this Agreement with its Application for New License and request the FERC incorporate it verbatim into the New License.

3.4.2 Importance of Human Health and Safety and the Integrity of the Public Water Supply and Electric Systems – Nothing in the LIP will limit the Licensee’s ability to take any and all lawful actions necessary at its hydro projects to protect human health and safety, to protect its equipment from damage, to ensure the stability of the regional electric grid, to protect the equipment of the Large Water Intake owners from damage, and to ensure the stability of public water supply systems; provided that nothing in this Agreement or LIP will obligate the Licensee to take any actions to protect the equipment of Large Water Intake owners from damage or to ensure the stability of the public water supply systems. It is recognized the Licensee may take such actions to provide this protection without prior consultation or notification.

3.4.3 Effective Date for LIP – The Parties agree to fully implement their water management responsibilities as applicable under the LIP beginning on the Effective Date of this Agreement.
3.4.4 As a condition of the Licensee’s written approval, the Licensee shall require all owners of new, expanded, or rebuilt water intakes who install an intake on Lake Keowee to comply with the requirements of the LIP.

3.4.5 Rainfall Data Collection – Within one year following the issuance of the New License, the Licensee shall upgrade its rainfall data collection and reporting system so rainfall amounts recorded at the Keowee and Jocassee Developments and the Bad Creek Project can be used on an updated daily basis for the purposes of the LIP.

3.4.6 Regional Drought Response – When the Project is operating in any stage of the LIP, the Parties shall encourage water intake owners located on the USACE Reservoirs (i.e., Hartwell, Russell and Thurmond) downstream of the Project and their customers to implement water conservation measures similar to the LIP.

3.4.7 Responsibilities of Parties – The Parties to this Agreement without specific responsibilities under the LIP shall support implementation of the LIP by the Licensee and other Large Water Intake owners by undertaking reasonable efforts to communicate: (1) the severity of drought and the restrictions associated with each LIP stage to their respective constituents; and (2) the efforts of the Licensee and other Large Water Intake owners to reduce water consumption.

3.4.8 Revising the LIP – The LIP revision process, including notification, consultation, and filing of any necessary New License amendments or 401 WQC modifications, is identified in the LIP. The filing of a revised LIP by the Licensee shall not constitute or require modification of this Agreement, and any Party to this Agreement may choose to be involved in the FERC’s or SCDHEC’s public processes for assessing the revised LIP, but may not oppose any part of a revised LIP that is consistent with the LIP included in this Agreement.

3.4.9 Lake Keowee Critical Reservoir Elevation – Provided Friends of Lake Keowee Society, Inc. ("FOLKS"), Advocates for Quality Development ("AQD"), The Reserve at Lake Keowee, and The Cliffs at Keowee Vineyards Community Association, Inc. are all Parties to this Agreement, the Licensee shall maintain Lake Keowee’s Critical Reservoir Elevation no lower than 90.0 ft local datum / 790.0 ft AMSL for the term of the New License.

3.5 Negotiation of NOA – The Licensee shall negotiate with the USACE and the SEPA to develop a NOA that incorporates: (1) the applicable operating parameters to ensure the NOA is not inconsistent with this Agreement; (2) the usable water storage in all six hydro reservoirs owned by the Licensee and the United States of America in the Upper Savannah River Basin (i.e., Bad Creek, Jocassee, Keowee, Hartwell, Russell and Thurmond); and (3) an allowance in case lake levels at the USACE Reservoirs are intentionally maintained at lower levels (e.g., to support maintenance situations), so that the Licensee shall not have to provide a higher weekly flow release from the Keowee Development than would have otherwise been required. During the negotiation of the NOA, the Licensee shall also pursue any feasible opportunities to include requirements in the NOA promoting consistent drought response among water users throughout the Upper Savannah River Basin in a manner similar to the LIP.

3.6 Savannah River Water Resource Planning – Within two years following both i) the issuance of a New License that is not inconsistent with this Agreement, the end of all appeals, and the closure of all rehearing and administrative challenge periods and
ii) the signing by the Licensee, USACE, and SEPA of a NOA that is not inconsistent with this Agreement, the Licensee after consultation with the Parties shall make available $438,000 in funding for initiatives approved by the Licensee to improve water quantity planning and management in the Savannah River Basin.

3.7 Existing Water Withdrawals and Effluent Discharges – The Parties acknowledge the Licensee will include in its Application for New License a table(s) that identifies existing conditions with regard to Large Water Intakes and effluent discharges located within the Project Boundaries.
4.0 Maintenance and Emergency Protocol ("MEP") Agreements

4.1 MEP License Article – The Parties recommend the proposed Maintenance and Emergency Protocol for the Keowee-Toxaway Hydroelectric Project License Article, the full text of which is provided in Appendix A of this Agreement, be incorporated verbatim into any New License the FERC may issue for the Project.

4.2 MEP – The Licensee shall file the MEP provided in Appendix E of this Agreement with its Application for New License and request the FERC incorporate it verbatim into the New License.

4.3 Importance of Human Health and Safety and the Integrity of the Public Water Supply and Electric Systems – Nothing in the MEP will limit the Licensee’s ability to take any and all lawful actions necessary at its hydro projects to protect human health and safety, to protect its equipment from damage, to ensure the stability of the regional electric grid, to protect the equipment of the Large Water Intake owners from damage, and to ensure the stability of public water supply systems; provided that nothing in this Agreement or MEP will obligate the Licensee to take any actions to protect the equipment of Large Water Intake owners from damage or to ensure the stability of public water supply systems. It is recognized the Licensee may take such actions to provide this protection without prior consultation or notification.

4.4 Revising the MEP – The MEP revision process, including notification, consultation and filing of any necessary New License amendments or 401 WQC modifications, is identified in the MEP. The filing of a revised MEP by the Licensee will not constitute or require modification of this Agreement, and any Party to this Agreement may be involved in the FERC or SCDHEC public processes for assessing the revised MEP, but may not oppose any part of a revised MEP that is consistent with the MEP included in this Agreement.
(intentionally blank)
5.0 Historic Properties Agreements

5.1 Historic Properties License Article – The Parties recommend the proposed Historic Properties License Article, the full text of which is provided in Appendix A of this Agreement, be incorporated verbatim into any New License the FERC may issue for the Project.

5.2 Historic Properties Management Plan (“HPMP”) – The Licensee shall include the following actions in the proposed HPMP it files with the Application for New License:

5.2.1 Archaeological Site Monitoring – The Licensee will annually monitor sites 38OC460, 38OC461, 38OC462, 38OC466, 38OC467, and 38PN175 to document their status.

5.2.2 Access Area Cemetery Management – The Licensee in consultation with the SC State Historic Preservation Office (“SCSHPO”) and any lessees will develop specific management plans for the cemeteries at Stamp Creek Access Area and South Cove County Park.

5.2.3 Lake Use Permitting – The Licensee will incorporate the lake use permitting requirements regarding Historic Properties and Cultural Resources from the existing Programmatic Agreement into the HPMP.

5.2.4 Public Outreach – The Licensee in consultation with the SCSHPO, the Eastern Band of Cherokee Indians (“EBCI”) Tribal Historic Preservation Office (“THPO”), and the SC Department of Parks, Recreation and Tourism (“SCDPRT”) will develop interpretative signage or other materials for display at the Jocassee Gorges Visitor Center located at Keowee-Toxaway State Park and selected Project Access Areas regarding the history of the Project area. Topics will include, but will not be limited to, Cherokee history and hydropower development. The Licensee will provide drafts of the signage or other materials within two years and will install signage and complete other materials within three years following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods.

5.2.5 Traveling History Exhibit – The Licensee in consultation with the SCSHPO, the EBCI THPO, and the SCDPRT will develop a traveling exhibit on the history of the Project area to be used at various visitor centers, exhibits, schools, etc. Topics will include, but will not be limited to, Cherokee history and hydropower development. The Licensee will provide drafts of the materials associated with the exhibit within two years and complete exhibit development within three years following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods.
(intentionally blank)
6.0 Public Recreation Agreements

6.1 Public Recreation License Articles – The Parties recommend the proposed Recreation Management Plan License Article and the Recreation Planning License Article, the full text of which are provided in Appendix A of this Agreement, be incorporated verbatim into any New License the FERC may issue for the Project.

6.2 Recreation Management Plan (“RMP”) – The Licensee shall include the following activities in the RMP submitted with the Application for New License.

6.2.1 Specific Facility Enhancements and Construction Schedules – The Licensee shall include the following facility enhancements in the RMP and schedule their construction to occur during the first ten years of the New License.

6.2.1.1 Devils Fork State Park – The Licensee shall develop a designated location for diver access; install a new courtesy dock at the main ramps usable over a larger range of reservoir elevations than the existing courtesy dock; construct a new boat and trailer parking area to serve the existing campground; and enhance the Roundhouse Point ramps to facilitate non-motorized boating.

6.2.1.2 Expansion of Double Springs Campground – The Licensee shall add into the Project Boundary approximately 25 acres (“ac”) adjoining the existing campground currently leased and operated by the SCDPRT and shall designate it as reserved for public recreation. The Licensee shall also offer to lease this additional land to the SCDPRT, construct a composting-type toilet, and construct 12 additional campsites if the SCDPRT is a Party to this Agreement and accepts the offer of additional leased land within one year following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods.

6.2.1.3 Keowee Town Access Area – The Licensee shall construct trails and, where feasible, add single vehicle parking; and install appropriate signage to support wildlife viewing and bank fishing.

6.2.1.4 Fall Creek Access Area – The Licensee shall construct trails and, where feasible, add single vehicle parking; and install appropriate signage to support wildlife viewing and bank fishing at the Fall Creek Island/peninsula.

6.2.1.5 Mile Creek County Park

6.2.1.5.1 The Licensee shall construct up to ten primitive campsites and up to five bank fishing stations with open air fishing shelters if Pickens County is a Party to this Agreement and the County agrees to operate and maintain the new facilities.

6.2.1.5.2 If Pickens County is a Party to this Agreement, the Licensee shall support the development of ten pre-manufactured camping cabins by conducting any required archaeological investigations; working with Pickens County to develop a mutually agreeable schedule and design specification for the cabins and obtain firm quotes from cabin and septic tank manufacturers; and paying the materials costs for the cabins and septic tanks with the Licensee’s total cost not to exceed $350,000. The Licensee’s funding shall be available within one year following FERC
approval of the RMP. Pickens County shall be responsible for all other costs and all activities associated with the permitting, installation, operation, and maintenance of said cabins and shall ensure the camping cabins are available for public use consistent with the County’s current Campsite Reservation Policies for Mile Creek County Park. The Licensee shall expedite its internal review of design plans provided by Pickens County.

6.2.1.6 Cane Creek Access Area – The Licensee shall designate shoreline areas by installing appropriate signage and, where feasible, add single vehicle parking to support bank fishing.

6.2.1.7 New Project Access Areas – The Licensee shall designate High Falls II (approximately 36.19 ac) and Mosquito Point (approximately 10.25 ac) as reserved for future public recreation needs as specified in Section 7.5.4.

6.2.1.8 Keowee-Toxaway State Park – The Licensee shall construct a canoe/kayak launch, fishing pier, and canoe portage as specified in Section 6.3.2.

6.2.1.9 Stamp Creek Access Area – The Licensee shall construct trails and, where feasible, add single vehicle parking; and install appropriate signage to support wildlife viewing and bank fishing.

6.2.2 Access Area Improvement Initiative (“AAII”) Program

6.2.2.1 Existing AAII Lease Terms – The Licensee shall offer to extend the leases for High Falls County Park, Mile Creek County Park, Warpath Marina, Devils Fork State Park, and South Cove County Park through the term of the New License if the current lessees are Parties to this Agreement and accept the offer of lease extension within one year following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods. The Licensee will offer an extension of the Warpath Marina lease only if the facilities have been constructed consistent with the requirements of and schedule in the Existing License RMP.

6.2.2.2 New AAII Leases – The Licensee shall offer new, low-cost AAII leases as follows to support development of additional facilities to enhance public recreation at the Project if the identified organization is a Party to this Agreement and accepts the offer of lease within two years following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods:

- Bootleg Access Area to be leased to the SCDNR;
- Crow Creek Access Area to be leased to Pickens County;
- 15-ac lake at Keowee-Toxaway State Park to be leased to the SCDPRT including upland Project lands and the existing water-retaining structure associated with the impoundment; and
- Fall Creek Access Area, Keowee Town Access Area, Stamp Creek Access Area, and Cane Creek Access Area to be leased to Oconee County.
6.2.3 **Bank Fishing at Project Access Areas** – The Licensee shall ensure the shoreline of all Project Access Areas remains open for bank fishing for the term of the New License, except for those minimal shoreline areas where bank fishing is restricted for safety reasons, management problems, or to avoid conflicts with other access area users. The Licensee, in consultation with AAII lessees for those Project Access Areas subject to an AAII lease, shall designate with appropriate signage those portions of the shoreline within the Project Access Areas where bank fishing is prohibited.

6.2.4 **Future RMP Revisions** – The Licensee shall convene the Parties to assess the need for conducting a new Recreation Use and Needs (“RUN”) Study in conjunction with the development of the second FERC Form 80 Licensed Hydropower Development Recreation Report (“Form 80”) filing after the issuance of the New License and every second Form 80 filing thereafter. If it is determined that a new RUN Study is needed, the new study shall be conducted the following year. Based upon the findings of each RUN Study during the term of the New License, the Licensee shall revise the RMP as necessary for the Project and request FERC approval. The Licensee shall solicit input from the Parties in developing and implementing the RUN Study and in the revision of the RMP. The filing of a revised RMP by the Licensee will not constitute or require modification of this Agreement, and any Party may be involved in the FERC’s public process for assessing the revised RMP, but shall not oppose any part of a revised RMP that is consistent with the RMP filed with the Application for New License. If at any time during the term of the New License the FERC changes its schedule for or no longer requires filing Form 80, the Licensee shall convene the Parties for the purposes described in this Section 6.2.4 every twelfth year of the New License beginning from last convening of the Parties to determine the need for a RUN Study under the New License or the effective date of the New License, whichever is later. While scheduled RUN studies are the primary means of regularly updating needs and plans for public recreation facilities, nothing in this paragraph precludes the Licensee’s receiving and acting, in the Licensee’s sole discretion, upon unscheduled recommendations for new or improved public recreational facilities based on observations of the Licensee and others. The Licensee shall also not be obligated to formally respond to or act upon such recommendations.

6.2.5 **Previous Recreation-related Agreement Superseded** – The agreement between Duke Power Company (predecessor to the Licensee) and the South Carolina Wildlife Resources Department (predecessor to both the SCDNR and the SCDPRT), identified as Exhibit R-5 to the Existing License and dated July 29, 1965, regarding recreational access at the Project, is superseded by this Agreement.

6.2.6 **Americans with Disabilities Act (“ADA”) Requirements** – The Licensee shall ensure all facilities constructed at Project Access Areas comply with ADA requirements when so constructed.

6.2.7 **Form 80s** – The Licensee shall notify the Parties when the Form 80(s) has been filed.
6.3 Non-Project Public Recreational Enhancements

6.3.1 The Parties to this Agreement acknowledge the measures in this Section 6.3 shall not be included in the RMP because they will be located outside the Project Boundaries.

6.3.2 Keowee-Toxaway State Park – The Licensee shall connect the park to municipal water, pave an access road to a new primitive camping area, and construct ten primitive campsites, three camping cabins, a canoe/kayak launch, a new parking area, an event cabin, an outdoor gathering space with firepit, a fishing pier using the existing bridge abutment, a picnic pavilion, a portage around the existing water-retaining structure impounding 15-ac lake, and two bathhouses all within ten years following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods provided the SCDPR is a Party to this Agreement and enters into a lease agreement for the term of the New License for the Project lands as specified in Section 6.2.2.2 above.

6.3.3 Jocassee Gorges Wildlife Management Area – If the SCDNR is a Party to this Agreement, then for one year following the issuance of the New License, the end of all appeals, and closure of all rehearing and administrative challenge periods, the Licensee shall offer to the SCDNR a low-cost lease for the term of the New License of the Licklog (46 ac) and Dismal Creek (21 ac) properties (see Appendix F, Figure F-1) for inclusion in the Jocassee Gorges Wildlife Management Area. If the SCDNR declines the offer of lease or does not enter into the lease within the one-year offer period, the Licensee may offer a similar lease to another entity to manage the property for public recreation and conservation purposes.

6.3.4 Granny Gear Access Area – The Licensee shall maintain the existing Granny Gear Access Area (see Appendix F, Figure F-1) for the term of the New License if the SCDNR is a Party to this Agreement and for so long as the SCDNR continues to maintain the Dug Mountain Access Area.

6.3.5 Jocassee Spillway Tract – The Licensee shall retain the Jocassee Spillway Tract (approximately 124 ac; see Appendix F, Figure F-1) for the term of the New License and restrict its use during the New License term to the support of power production, power transmission, and public recreation.

6.3.6 Bad Creek South Tract – The Licensee shall retain the Bad Creek South Tract (approximately 300 ac; see Appendix F, Figure F-1) until the end of the Bad Creek Project license term in 2027 and restrict its use until then to the support of power production, power transmission, and public recreation.

6.3.7 Fishers Knob Tract – If the SCDNR is a Party to this Agreement, then for one year following the issuance of the New License, the end of all appeals, and closure of all rehearing and administrative challenge periods, the Licensee shall offer a low-cost lease of approximately 45 ac on Fishers Knob (see Appendix F, Figure F-1) to the SCDNR for the term of the New License. If the SCDNR accepts the offer of lease, the SCDNR shall be responsible for all administrative activities and costs associated with the management of the property. The SCDNR acknowledges there shall be no public access via Fishers Knob road to the property and that the Licensee may remove portions of the leased land to support power production, power transmission, and public recreation. If the
SCDNR declines the offer of lease or does not enter into the lease within the one-year offer period, the Licensee is under no obligation under the terms of this Agreement to retain ownership of the tract or manage it in any particular way.

6.3.8 Jocassee East Tract – The Licensee shall retain approximately 158 ac east of the Jocassee Pumped Storage Station (see Appendix F, Figure F-1) for the term of the New License and restrict its use during the New License term to the support of power production, power transmission and public recreation.

6.3.9 Laurel Preserve Tract – If the SCDNR and Pickens County are both Parties to this Agreement, then for two years following the issuance of the New License, the end of all appeals, and closure of all rehearing and administrative challenge periods, the Licensee shall offer a low-cost lease of the Laurel Preserve Tract (approximately 504 ac; see Appendix F, Figure F-1) to the SCDNR for the term of the New License. If the SCDNR accepts the offer of lease, the SCDNR shall be responsible for all administrative activities and costs associated with the management of the property. If the SCDNR declines the offer of lease or does not enter into the lease within the two-year offer period, the Licensee may offer a similar lease to another entity to manage the property for public recreation and conservation purposes.

6.3.10 Eastatoe Creek Tract – If the SCDNR and Pickens County are both Parties to this Agreement, then for two years following the issuance of the New License, the end of all appeals, and closure of all rehearing and administrative challenge periods, the Licensee shall offer a low-cost lease of the Eastatoe Creek Tract (approximately 23 ac; see Appendix F, Figure F-1) to the SCDNR for the term of the New License. If the SCDNR accepts the offer of lease, the SCDNR shall be responsible for all administrative activities and costs associated with the management of the property. If the SCDNR declines the offer of lease or does not enter into the lease within the two-year offer period, the Licensee may offer a similar lease to another entity to manage the property for public recreation and conservation purposes.

6.3.11 Nine Times Tract – If the SCDNR, Upstate Forever, South Carolina Wildlife Federation, and Pickens County are all Parties to this Agreement, the Licensee shall provide $1,044,000 to Naturaland Trust to be applied to the purchase price of the Nine Times Tract (approximately 1,648 ac) so long as Naturaland Trust enters into a Memorandum of Agreement ("MOA") with the Licensee no later than December 3, 2013, to comply with the use, management, and ownership requirements of the U.S. Forest Service Community Forest and Open Space Conservation Program and the following stipulations:

6.3.11.1 The Licensee’s funding shall be used only to help purchase the Nine Times Tract consistent with the Naturaland Trust’s existing purchase option. The Licensee shall provide its funding after the MOA is signed by the Licensee and Naturaland Trust and not later than December 26, 2013.

6.3.11.2 MOA Stipulations – The Licensee shall include the following stipulations in its MOA with Naturaland Trust.

6.3.11.2.1 Management Plan – Naturaland Trust shall collaboratively develop a management plan (the U.S. Forest Service Community Forest Management Plan) for the property. The management plan shall, among other things, provide significant opportunities for public access to the vast
majority of the property and shall allow for traditional recreational uses of the property, including but not necessarily limited to significant opportunities for public hunting for the term of the New License.

6.3.11.2.2 Parties’ Involvement in Management Plan Development – Naturaland Trust shall invite the Parties to this Agreement to consult and have a meaningful role in the development of the management plan for the property. The initial management plan shall be completed within 120 days after the acquisition of the Nine Times Tract. If the management plan is modified at any point during the term of the New License, Naturaland Trust shall invite the Parties to this Agreement to review and comment on the proposed changes and Naturaland Trust will endeavor in good faith to accommodate reasonable input from Parties to this Agreement.

6.3.11.2.3 Ownership of Tract – Naturaland Trust shall maintain ownership of the property for the term of the New License or ensure it is transferred to an eligible governmental entity (as defined by then-current laws and regulations) that will maintain it for the term of the New License consistent with the collaboratively developed management plan. If permitted under the U.S. Forest Service Community Forest and Open Space Conservation Program, the Nine Times Tract shall be made subject to a permanent conservation easement held by Upstate Forever.

6.3.12 Oconee County Conservation Bank – If Oconee County, Upstate Forever, and the South Carolina Wildlife Federation are all Parties to this Agreement, the Licensee shall provide $600,000 to the Oconee County Conservation Bank within two years following the issuance of the New License, the end of all appeals, and closure of all rehearing and administrative challenge periods.

6.3.13 World of Energy Picnic and Fishing Access Area – To the extent not prohibited by the Nuclear Regulatory Commission, the Licensee shall designate a trail for angler access to the Oconee Nuclear Station (“ONS”) discharge canal, and the Licensee shall operate and maintain the existing picnic and fishing facilities near the World of Energy for public recreation support. The Parties acknowledge this access area will be limited to day-use only, and it may be closed at the Licensee’s sole discretion without notice for security- and safety-related issues at ONS. The Parties also acknowledge this access area may be closed permanently at the Licensee’s sole discretion at the end of the New License term, during the term of the New License, or if either the World of Energy or ONS are permanently closed.

6.3.14 Exclusive Right to Purchase

6.3.14.1 Pickens County Tracts – If the SCDNR, SCDPRT, Upstate Forever, South Carolina Wildlife Federation, and Pickens County are all Parties to this Agreement, the Licensee shall grant to the SCDNR an Exclusive Right to Purchase the Jocassee East, Eastatoe Creek, and Laurel Preserve tracts at a price agreeable to both the Licensee and the SCDNR to be negotiated between the Licensee and the SCDNR prior to purchase. The Exclusive Right to Purchase shall be granted by the Licensee within three months following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods. The Licensee shall ensure any Exclusive Right to Purchase it enters into in
accordance with this paragraph is provided to the Pickens County Register of Deeds Office for recordation within 90 days following signing of such Exclusive Right to Purchase by the Licensee and the SCDNR. The Exclusive Right to Purchase shall extend for the term of the New License. During the term of the New License, the Licensee may not offer to sell these identified tracts to anyone other than the SCDNR, its successor, or an assign that is mutually agreeable to the Licensee and the SCDNR.

6.3.14.2 Oconee County Tracts – If the SCDNR, SCDPRT, Upstate Forever, South Carolina Wildlife Federation, and Oconee County are all Parties to this Agreement, the Licensee shall grant to the SCDNR an Exclusive Right to Purchase the Bad Creek South, Jocassee Spillway, Licklog, and Dismal Creek tracts at a price agreeable to both the Licensee and the SCDNR to be negotiated between the Licensee and the SCDNR prior to purchase. The Exclusive Right to Purchase shall be granted by the Licensee within three months following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods. The Licensee shall ensure any Exclusive Right to Purchase it enters into in accordance with this paragraph is provided to the Oconee County Register of Deeds Office for recordation within 90 days following signing of such Exclusive Right to Purchase by the Licensee and the SCDNR. The Exclusive Right to Purchase shall extend until July 31, 2027, for the Bad Creek South Tract, and for the term of the New License for the remaining tracts referenced in this Section 6.3.14.2. During the term of the New License, the Licensee may not offer to sell these identified tracts to anyone other than the SCDNR, its successor, or an assign that is mutually agreeable to the Licensee and the SCDNR.

6.3.14.3 Purchase of any tract identified in this Section 6.3.14 by the SCDNR releases the Licensee from its obligation to retain, lease, or restrict use of the specific purchased tract only and does not affect the Licensee’s obligation to retain, lease, or restrict use of any other lands identified in Section 6.3.

6.3.14.4 The Exclusive Right to Purchase the properties identified in this Section 6.3.14 will specify that the Licensee may elect to retain portions of said tracts adjoining FERC project boundaries or located within transmission line rights-of-way similar to previous property sales to South Carolina.

6.3.15 Sassafras Mountain Observation Tower – If the SCDNR, Upstate Forever, Greenville Water (“GW”), and Pickens County are all Parties to this Agreement, the Licensee shall provide $350,000 to the SCDNR to support construction of an observation tower, restroom facilities, and interpretive signage at Sassafras Mountain within two years following the Effective Date of this Agreement. The SCDNR shall invite the Parties to this Agreement to consult and have a meaningful role in the development of the management plan for the property and the development of interpretive signage. If the management plan is modified at any point during the term of the New License, the SCDNR shall invite the Parties to this Agreement to review and comment on the proposed modifications. To the extent practical, the SCDNR will endeavor to accommodate reasonable input from the Parties to this Agreement.
6.4 Recreation User Education and Outreach

6.4.1 The Licensee shall support the following recreation user education and outreach efforts for term of the New License.

6.4.1.1 The Licensee shall sponsor an annual community safe boating educational effort in the Project area in partnership with the SCDNR and other interested organizations.

6.4.1.2 If Oconee County is a Party to this Agreement, the Licensee shall provide $10,000 per year to Oconee County to support school programs on environmental stewardship and litter prevention.

6.4.1.3 If Pickens County is a Party to this Agreement, the Licensee shall provide $10,000 per year to Pickens County to support school programs on environmental stewardship and litter prevention.

6.4.1.4 If FOLKS is a Party to this Agreement, the Licensee shall support semiannual litter collection efforts at the Project in partnership with FOLKS by providing bags and disposing of collected trash deposited at Licensee-designated Project Access Areas. The Licensee shall invite other interested organizations, including the Friends of Jocassee, to participate in these litter collection efforts.

6.4.2 After the first ten years of the New License, the Licensee and the other Parties participating in the initiatives identified in Section 6.4.1 may jointly elect to modify or discontinue their cooperative education and outreach efforts identified in Section 6.4.1, and such modification or discontinuance will not constitute or require a modification of this Agreement.

6.5 Islands – The Licensee shall retain ownership of the islands within the Project for the term of the New License.

6.6 Commercial Recreation Area Amenities at Project Access Areas on Lake Keowee

6.6.1 Allowable Public Recreation Amenities at All Project Access Areas at Lake Keowee – The Parties shall not oppose the use by the Licensee or its lessees of all Licensee-owned Project Access Areas at Lake Keowee for the following public recreation support amenities: courtesy docks; facilities where boats can be launched, retrieved, and moored; picnic sites and shelters; hiking, nature, and bank fishing trails; fishing piers; restrooms, vault toilets, or bathhouses; parking and lighting; wildlife viewing platforms; swimming areas and associated changing facilities; fire, rescue, and law enforcement facilities; and playgrounds and playground equipment.

6.6.2 Restriction on Commercial Recreation Area Amenities at Project Access Areas on Lake Keowee – The Licensee shall neither use nor allow lessees to use Crow Creek, Cane Creek, and Stamp Creek Project Access Areas for any of the following Commercial Recreation Area amenities: multi-slip marinas; convenience retailing; food services; pump-out facilities; gas-dispensing and sales; dry stack and boat yard storage facilities; or lodging.

6.6.3 Allowable Commercial Recreation Area Amenities at Specified Project Access Areas on Lake Keowee – The Parties shall not oppose the use of Keowee Town, Fall Creek, High Falls County Park, High Falls II, Mile Creek County Park, Mosquito Point, and South Cove County Park Project Access Areas
for the following commercial recreation amenities: multi-slip marinas; convenience retailing; food services; pump-out facilities; gas dispensing and sales; dry stack and boat yard storage facilities; lodging except hotels and motels; and the amenities identified in Section 6.6.1. The Parties to this Agreement reserve the right to comment on the details of future commercial lake use permit applications through various public comment opportunities.

6.7 Construction, Approvals and Permits – The Parties acknowledge that construction of the public recreation facilities described in this Section 6.0 and in the proposed RMP License Article is contingent upon the ability of the Licensee and/or other recreation facility providers to obtain any necessary federal, tribal, state, or local government approvals or permits required. If any of the facilities are not constructed because of the inability to obtain such permits or approvals, then the Licensee and/or other recreation facility providers shall endeavor in good faith to construct comparable facilities as a replacement within a reasonable time schedule. The Licensee and/or other recreation facility providers shall endeavor in good faith to find a suitable location and obtain the necessary approvals and permits for such replacement facilities that are acceptable to and approved by the FERC, if FERC approval is required.

6.8 Construction Feasibility – The Parties acknowledge that construction of the public recreation facilities described in this Section 6.0 is contingent upon the ability of the Licensee and/or other recreation facility providers to design and construct the facilities consistent with accepted recreation facility standards, user safety, and public infrastructure security requirements. If any of the facilities are not constructed because of feasibility problems, then the Licensee and/or other recreation facility providers shall endeavor in good faith to provide appropriate replacement alternatives for which they can obtain the necessary permits and approvals, including FERC approval, if FERC approval is required to be constructed within a reasonable time schedule.
7.0 Shoreline Management Agreements

7.1 Shoreline Management License Articles – The Parties recommend that the proposed Shoreline Management Plan License Article and the Shoreline Management Plan Review and Update Procedures License Article, the full text of which are provided in Appendix A of this Agreement, be incorporated verbatim into any New License the FERC may issue for the Project.

7.2 Combined Project Shoreline Management Plan (“SMP”) – The Parties understand the Licensee will combine the Lake Keowee SMP approved by the FERC in 2007 and Lake Jocassee SMP approved by the FERC in 2013 into a single Project SMP it will submit with the Application for New License. The Parties understand it will be necessary for the Licensee to make a large number of formatting and other changes to combine the components of the Lake Jocassee and Lake Keowee SMPs into the Project SMP.

7.3 Shoreline Management Plan Effective Date – The SMP, including the revised Shoreline Classification Maps and associated Lake Use Restrictions and the revised Shoreline Management Guidelines (“SMG”), submitted with the Licensee’s Application for New License shall be effective on September 1, 2014.

7.4 Shoreline Classification Maps – The Licensee shall include the Shoreline Classification Maps made available to the Parties as drafts on September 13, 2013, with any corrections resulting from a quality assurance review conducted prior to filing the Application for New License.

7.5 SMG Revisions – The Licensee shall include the following changes in the revised SMG it will file with the Application for New License.

7.5.1 Unencapsulated Foam – Existing residential dock owners must remove and properly dispose of unencapsulated foam from their docks by September 1, 2018. No lake use permit application or Habitat Enhancement Program (“HEP”) fees will be charged for lake use permit applications that are only removing unencapsulated foam and replacing it with approved floatation.

7.5.2 Modification of Existing Docks to Reach Deeper Water – Property owners with a previously constructed or permitted dock may wish to modify their boat dock to reach deeper water and improve the dock’s usability during future extended droughts. Such modifications for the purpose of reaching deeper water must follow the then-current SMP, including but not limited to getting written approval from the Licensee before making such modifications. However, to facilitate boat dock modifications to reach deeper water, the Licensee will implement the following accommodations for the fixed period of time and applicability stated below.

7.5.2.1 Exception for Larger Dock Surface Area – The normal maximum size limit of 1,000 square ft for a boat dock approved under the Private Facilities Program is increased to 1,200 square ft if the larger size is needed to reach deeper water. The SMG restrict boat docks adjacent to certain properties to less than 1,000 square ft based on certain criteria. Boat docks with a maximum size limit of less than 1,000 square ft will be allowed a size limit that is 200 square ft larger if the larger size is needed to reach deeper water.
7.5.2.2 Exception for Longer Build-out Period – To better handle the expected construction volume, the normal build-out period as stated in the applicable SMG program is increased by one year for boat dock modifications needed to reach deeper water.

7.5.2.3 Waiver of Certain Fees – For the fixed period identified in Section 7.5.2.4, the Licensee will not charge a lake use permit application fee or a HEP fee for permitting dock modifications needed to reach deeper water.

7.5.2.4 Window of Opportunity for Surface Area and Build-out Period Exceptions and Waiver of Certain Fees – The Licensee will accept lake use permit applications from property owners eligible for the surface area and build-out period exceptions and fee waivers stated herein following the completion of all of the events stated below, but no sooner than December 1, 2014.

7.5.2.4.1 This Agreement has been signed by the Licensee, FOLKS and AQD;

7.5.2.4.2 Any additional required regulatory actions are taken (e.g., issuance of a revised Permit for Construction in Navigable Waters by the SCDHEC, and General Permit to perform work in or affecting waters of the United States by the USACE for the Keowee-Toxaway Hydroelectric Project); and

7.5.2.4.3 A NOA that is not inconsistent with this Agreement has been signed by the Licensee, the USACE, and the SEPA.

The Licensee will provide broad public notification at least 30 days prior to the opening of this window of opportunity. Once the window of opportunity opens, then for a period of 365 days the Licensee will accept eligible lake use permit applications for the surface area and build-out period exceptions and fee waivers.

7.5.2.5 Applicability – Docks managed under any of the Licensee’s Lake Use Permitting Programs are eligible for the accommodations listed herein, provided the pre-existence or pre-approval criteria are met and the proposed modifications are for the purpose of reaching deeper water. Modifications can include complete replacement of the dock, relocation of the dock along the approved shoreline, reconfiguration, simple extensions of gangways, or combinations of these. Only property owners having one of the following by the Effective Date of this Agreement are eligible for the surface area and build-out period exceptions and fee waivers stated above: (1) an existing Licensee-approved boat dock or (2) a Licensee-approved lake use permit for a not-yet-constructed boat dock issued less than 12 months prior to the Effective Date of this Agreement.

7.5.2.6 Modification of Docks to Reach Deeper Water Prior to or after the Window of Opportunity – Property owners who wish to modify their docks to reach deeper water either before or after the window of opportunity stated above may do so with the proper approvals including written approval from the Licensee. In such situations, the applicant is not eligible for the surface area and build-out period exceptions or fee waivers listed in this Section 7.5.2.
7.5.3 Follow the Water – Dock owners, including owners of commercial and residential marinas and public recreation facilities, may “follow the water” in an effort to maintain usability of their boat or dock during LIP Stages 2, 3, or 4. The procedure and requirements that apply to following the water are included in Appendix G.

7.5.3.1 After experience is gained with this following-the-water process, the Licensee reserves the right to modify the procedures to follow the water in the future to protect human health and safety, to meet the tenets of the SMP, to meet the requirements in the USACE and SCDHEC General Permits, or if directed by the FERC. The Licensee shall consult with the Parties to this Agreement prior to making any such modifications and will file the modifications with the FERC and other regulatory agencies as required. Any such modification shall not require revision of this Agreement, and any Party to this Agreement may participate in the regulatory agencies’ review processes but shall not oppose any part of the revised following-the-water process that is consistent with the following-the-water process in this Agreement.

7.5.4 Commercial Marina Classification at Lake Keowee – The Licensee shall modify the Commercial Marina shoreline classification on Lake Keowee as follows.

7.5.4.1 The Parties acknowledge the Licensee has converted shoreline classified as Future Commercial Marina to Future Residential Marina on the draft SMP maps made available to the Parties on September 13, 2013, and this conversion to Future Residential Marina was applied to areas upstream of the Restriction Areas lines in Appendix F, Figures F-2 and F-3.

7.5.4.2 The Licensee shall eliminate the “Proximity to Existing Facilities” guideline (SMG: Section 1, B-2).

7.5.4.3 The Licensee shall classify the shoreline and the land area of the Licensee-owned property labeled High Falls II (approximately 36.19 ac) on Appendix F, Figure F-3 as “Future Public Recreation” and incorporate the land area into the Project Boundary in the Application for New License.

7.5.4.4 The Licensee shall classify the land area of the Licensee-owned property labeled Mosquito Point (approximately 10.25 ac) on Appendix F, Figure F-3 as “Future Public Recreation” and incorporate the land area into the Project Boundary in the Application for New License.

7.5.4.5 Available for Future Commercial Marinas – The Parties agree all Lake Keowee shoreline classified as Available for Future Commercial Marinas on Appendix F, Figures F-2 and F-3 shall remain classified as such until such time as the shoreline is developed. No Party will oppose the use of locations classified as Available for Future Commercial Marinas on Appendix F, Figures F-2 and F-3 for the following recreational amenities: multi-slip marinas; convenience retailing; food services; pump-out facilities; gas dispensing and sales; dry stack storage; boat yard storage; lodging except hotels and motels; courtesy docks; facilities where boats can be launched, retrieved, and moored; picnic sites and shelters; hiking, nature, and bank fishing trails; fishing piers; restrooms, vault toilets, or bathhouses; parking and lighting; wildlife viewing platforms; swimming areas and associated
changing facilities; fire, rescue, and law enforcement facilities; and playgrounds and playground equipment. The Parties reserve the right to comment on the details of future commercial lake use permit applications through various public comment opportunities.

7.5.5 Commercial Marina Classification at Lake Jocassee – The Licensee shall not designate any shoreline as available for Future Commercial Marinas or Future Residential Marinas at Lake Jocassee.

7.5.6 Permitting of Water Intakes

7.5.6.1 Water Intakes on Lake Jocassee – The Licensee shall not authorize new water intakes for public or industrial water supplies on Lake Jocassee.

7.5.6.2 Permanent Large Water Intakes – Criterion 7 from the Conveyance Program in the SMG shall be changed to comply with the requirements of Section 3.3 of this Agreement to protect and enhance usable water storage.

7.5.7 Lake Use Policy Statements – The Licensee shall no longer apply the Lake Use Policy Statements at the Project and shall remove references to them from the SMG.

7.5.8 Archaeological and Historic Resources – The procedures for protecting known and unknown archaeological and historic resources outlined in the SMG shall be modified to reflect the requirements set forth in Section 5.2.3.

7.6 Future SMP Updates

7.6.1 The Parties to this Agreement agree the SMP shall be reviewed and updated no more frequently than every tenth year of the New License term and then only if necessary.

7.6.2 SMP Changes – All Parties agree that changes made to the SMP, which includes the SMG, pursuant to the proposed Shoreline Management Plan License Article or the proposed Shoreline Management Plan Review and Update Procedures License Article shall not constitute or require modification of this Agreement. The Licensee shall invite the Parties to participate in revisions of the SMP for the term of the New License, and any Party may be involved in the FERC’s public process for assessing the revised SMP but shall not oppose any part of the revised SMP that is consistent with this Agreement.

7.7 Shoreline Erosion – The Licensee shall install enhanced rip-rap to stabilize approximately 12,500 ft of actively eroding shoreline (generally denoted by scarps of three ft or higher) on Lake Keowee Islands currently identified as 1C, 1E, 3B’, 3C, 3C”, 5, 6, 8, and 16; on the east side of the Fall Creek Peninsula; and on portions of High Falls II and Mosquito Point (see Appendix F, Figures F-2 and F-3) within three years following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods.
8.0 Species Protection Agreements

8.1 Federal Threatened and Endangered Species

8.1.1 The Licensee will implement species protection plans for all federally listed Threatened and Endangered species affected by the Project.

8.1.2 The Parties acknowledge the Existing License does not contain any specific requirements for the protection of federally listed Threatened and Endangered species and, as of the Effective Date of this Agreement, no Federal Threatened and Endangered Species Protection Plans have been filed in association with the Project because no such species has been found occurring within the Project Boundaries, nor shown to be affected by the Project. All Parties agree that any future filing by the Licensee of new or revised Species Protection Plans that may be required shall not constitute or require modification of this Agreement.

8.2 Shoreline Woody Debris at Lake Jocassee – The Parties agree shoreline woody debris at Lake Jocassee enhances shoreline habitat and should not be routinely removed as required under the Existing License.

8.3 Habitat Enhancement Program (“HEP”)

8.3.1 If the SCDNR, FOLKS and AQD are all Parties to this Agreement, the Licensee shall establish a HEP as described in Appendix H to create, enhance, and protect aquatic and wildlife habitat within the Project Boundaries, including the Project Reservoirs and islands, plus any part of the watershed draining into Project Reservoirs. The HEP will exist for the term of the New License.

8.3.2 HEP Fee – The HEP will be funded by a fee charged to those requesting lake use permits from the Licensee. The Licensee shall begin collecting the HEP fee upon the SMP Effective Date (September 1, 2014).

8.3.3 Licensee Contributions – Also beginning on the SMP Effective Date, the Licensee shall match HEP fee payments from lake use permit applicants for the first three years up to an annual cap of $100,000. The Licensee shall provide $1,000,000, less the total amounts provided in the matching payments, as the remainder of the start-up funding for the HEP. The Licensee shall provide the remainder of its contribution within two years following issuance of a New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods.

8.3.4 Revising the HEP – The Parties acknowledge that the HEP fees and fee structure may be amended over time. Any fee changes will be determined after considering the recommendations from the Proposal Review Committee (“PRC”). It is the Licensee’s expectation that it will approve all PRC-recommended HEP fees, and the Licensee will consult with the PRC before rejecting PRC recommended HEP fee changes. Such changes will not constitute or require a modification of this Agreement. If the FERC requires the Licensee to file HEP fee changes with the FERC for approval, any Party to this Agreement may be involved in the FERC’s public process for assessing the revised HEP fees but shall not oppose any part of the revised HEP fees that is consistent with this Agreement.
8.4 Botanical Species

8.4.1 The Licensee shall protect Special Status Species and botanical Priority Species at known sites within the Project Boundaries by:

8.4.1.1 Classifying shoreline with these species as Environmental or Natural;
8.4.1.2 Ensuring recreation facility development at Project Access Areas avoids these species; and
8.4.1.3 Providing appropriate signage for these species located within the Project Boundaries in proximity to Project structures (powerhouses, dams, and dikes).

8.5 Fish Species

8.5.1 SCDNR Tributary Stream Restoration – If the SCDNR is a Party to this Agreement, the Licensee shall provide a one-time contribution of $100,000 to the SCDNR within two years following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods. The funds shall be used by the SCDNR as matching funds for obtaining grants associated with Project headwater streams.

8.5.2 Trout Habitat – If the SCDNR is a Party to this Agreement, the Licensee shall annually monitor (beginning in 2016 for the term of the New License) the depth of winter mixing in Lake Jocassee (February or March at Licensee Monitoring Station 558.0) and model the projected thickness of pelagic trout habitat (defined as a band of water \( \leq 20 ^\circ C \) (68 °F) and containing \( \geq 5 \) mg/L dissolved oxygen (“DO”)) expected to be present the following September. The Licensee shall provide this projected thickness of trout habitat to the SCDNR in May and verify the accuracy of this projection with a September measurement. If trout habitat is projected to be less than 10 meters (32.8 ft) thick by September, the Licensee shall measure temperature and DO in June and August to monitor habitat thickness. The Licensee shall then consult with the SCDNR regarding the modification of hydro operations to the extent practical so trout habitat thickness is not reduced to less than 5 meters (16.4 ft).

8.5.3 Fish Entrainment

8.5.3.1 If the SCDNR is a Party to this Agreement, the Licensee shall take the following actions to reduce fish entrainment at Jocassee Pumped Storage Station:

8.5.3.1.1 Intake Lighting Modifications – Redesign and modify lighting for the FERC-required public safety devices on the intake towers to eliminate or reduce the amount of light shining on the lake surface. Such modifications may include replacing white lights with red lights and illuminating signage from below rather than above the safety devices.

8.5.3.1.2 Tailwater Lighting Modifications – Redesign and modify lighting illuminating the tailwater area to eliminate or reduce the amount of light shining on the lake surface immediately downstream of the hydro units.
8.5.3.1.3 Hydro Unit Starting Sequence Modifications – When operating the hydro units in pumping mode, use a start-up sequence of Unit 3, Unit 4, Unit 1, and Unit 2, to the extent practicable.

8.5.3.2 The following conditions and schedule apply to the fish entrainment reduction actions identified in Section 8.5.3.1 above:

8.5.3.2.1 The Licensee shall consult with the SCDNR and the US Fish and Wildlife Service (“USFWS”) on its plan for lighting modifications prior to implementation.

8.5.3.2.2 The design of the lighting modifications shall conform with FERC public safety requirements and shall provide for the continued safety of hydro station personnel and the continued security of hydro station personnel and facilities.

8.5.3.2.3 The Licensee shall implement the pumping start-up sequence within 60 days following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods.

8.5.3.2.4 The Licensee shall implement the lighting modifications within one year following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods. The Licensee shall incorporate the lighting modifications to the extent necessary into its FERC Public Safety Plan and file the plan with the FERC’s Atlanta Regional Office.

8.5.3.2.5 The Parties to this Agreement agree the operational test performed by the Licensee in July 2013 at the Jocassee Pumped Storage Station is adequate for testing the efficacy of the fish entrainment reduction actions identified in Section 8.5.3.1.

8.5.4 Reservoir Level Stability for Black Bass Spawning – If the SCDNR is a Party to this Agreement, the Licensee shall endeavor to maintain to the extent practical relatively stable water levels in Lake Keowee and Lake Jocassee during the April 1 to May 15 (stabilization) period beginning in 2016 for the term of the New License. To do this, the Licensee shall maintain reservoir levels consistent with the general reservoir elevation trends observed during the stabilization periods in 1996-1999, 2003-2007, and 2010. The Parties agree this informal stabilization program should not be included as an article in the New License. The Licensee shall not be obligated to implement this stabilization during an MEP event or during any stage of the LIP. If water levels drop greater than the reservoir level trends observed during the years listed above, the Licensee shall consult with the SCDNR on options for reservoir stability, to the extent practical, for the remainder of the then-current stabilization period.
(intentionally blank)
9.0 Water Quality Agreements

9.1 Water Quality License Article – The Parties recommend the proposed Water Quality Monitoring License Article, the full text of which is provided in Appendix A of this Agreement, be incorporated verbatim into any New License the FERC may issue for the Project.

9.2 Request for 401 WQC – The Licensee shall request that the SCDHEC issue a 401 WQC as required by the Clean Water Act. The Licensee’s request for a 401 WQC shall be consistent with this Agreement and propose the monitoring of DO levels as described in Section 9.3.

9.3 Project Tailwater DO Monitoring – During the first complete month of August occurring at least 60 days following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods, and during each subsequent August for the term of the New License, the Licensee shall continuously monitor DO concentrations in both the Keowee Hydro Station and Jocassee Pumped Storage Station tailwaters. The Licensee shall submit the results obtained from this annual monitoring to the SCDHEC each year by November 30.

9.4 Source Water Protection Program – If FOLKS, GW, and City of Seneca (“Seneca”) are Parties to this Agreement, the Licensee shall provide, within two years following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods, $1,000,000 to a local, to-be-established Clean Water Group (“CWG”) to fund a Source Water Protection Program (“SWPP”), as described in Appendix I. Funding by the Licensee is contingent upon the establishment of this yet-to-be-formed CWG as a 501(c)(3) federally tax-exempt corporation prior to the receipt of funds. FOLKS shall take the lead in establishing the CWG and drafting its charter. FOLKS shall invite the Licensee to consult and have a meaningful role in the development of the charter. FOLKS will endeavor in good faith to accommodate reasonable input from the Licensee.

9.5 Water Quality Model and Data Provided to FOLKS – If FOLKS is a Party to this Agreement, the Licensee shall provide within 60 days following the Effective Date of this Agreement the existing calibrated CE-QUAL-W2 reservoir water quality model developed for Lake Keowee during the relicensing process. Data sets required to run the 2011 WQ4 calibrated model, including reservoir and stream water quality, lake bathymetry, meteorology, hydrology, and operational data will be included in the data package provided to FOLKS. The data provided to FOLKS shall be in compliance with terms of applicable data release policies of the Licensee effective at that time.
(intentionally blank)
10.0 Other Agreements

10.1 Requirement to be a Party to Receive Funding and Property Rights – The Parties agree that, unless the entity receiving the funding or property rights did not have the opportunity to sign this Agreement, all provisions of funding or granting to a specified entity of any rights associated with real property are contingent upon said recipient of funding or real property rights having signed this Agreement. In the event the intended recipient of Licensee funds or grants of real property rights was eligible to be a signatory Party to this Agreement but chose not to, the Parties acknowledge the Licensee is under no obligation to provide the funding, grants, or any provision of such benefits to any entity.

10.2 Reporting Requirements for Funding Recipients – Any entity that receives Licensee funding under this Agreement will be required to provide documentation to the Licensee within two years of receipt of such funding, including any installment funding that occurs over multiple years, specifying how the funding was used and how the funding recipient met any of the designated restrictions for the use of such funding. The funding recipient will also provide the Licensee copies of final research reports, project summaries, or other summaries of work.
GENERAL AGREEMENTS AND PROCEDURES

11.0 Effective Date and Term of Agreement

11.1 This Agreement shall become effective for all Parties on December 1, 2013 ("Effective Date of this Agreement"). This Agreement shall remain in effect for the term of the New License and for any annual licenses issued subsequent thereto, unless terminated pursuant to Section 22.0.

11.2 If a rehearing of the FERC order issuing the New License is sought by any person or entity, including any Party, any Party may request a stay of the effective date of the order and/or any other dates or articles specified in the order until the resolution of the rehearing request and the expiration of the statutory periods for appeals. Any Party may oppose such request for stay.

11.3 The Parties agree to support a New License term that is at least 40 years.

12.0 Offer of Settlement

The Licensee shall, by December 6, 2013, provide to all Parties a draft "Explanatory Statement," which is required by FERC rules. Parties may provide comments to the Licensee within 45 days of receipt of the draft Explanatory Statement and the Licensee shall address such comments when filing this Agreement and the Explanatory Statement with the FERC.

13.0 Adoption by the FERC Without Material Modification

13.1 The Parties have entered into this Agreement with the express desire and expectation that the FERC will approve this Agreement as an Offer of Settlement and issue a New License for the Project that incorporates, without material modification, the proposed License Articles in Appendix A.

13.2 Except as provided herein, the Parties agree that, if the FERC incorporates the proposed License Articles into the New License without material modification, no Party will seek rehearing of the FERC order granting the New License for any issues covered by this Agreement or support in any way any such request for rehearing by any person or entity.

13.3 The Parties have entered into this Agreement with the express understanding that each term in this Agreement, including the proposed License Articles in Appendix A, is in consideration of each other term.

14.0 Statutory Responsibilities of Federal, Tribal, State and Local Governmental Bodies

14.1 Except as provided in this Section and elsewhere in this Agreement, by becoming Parties to this Agreement, all Parties that are governmental bodies, including Tribes, believe this Agreement is consistent with their statutory responsibilities.

14.2 Notwithstanding Section 14.1, nothing in this Agreement is intended or shall be construed to restrict any Party that is a governmental body or Tribe with responsibilities, duties, or obligations imposed by law from fulfilling its responsibilities, duties, and
obligations under any applicable local, state, or federal law or regulation. Nothing in this Agreement is intended or shall be construed to restrict these governmental bodies and Tribes from fully and objectively considering any and all public comments received in any regulatory process related to the Project, from conducting an independent review of the Project under applicable statutes, or from providing comments to the FERC that are necessary to meet their responsibilities, duties, and obligations provided by law. All commitments and obligations of these governmental bodies and Tribes in, under, and pursuant to this Agreement shall be construed and interpreted as including, and meaning “to the extent allowed by local, state, and federal law and regulation, and consistent with local, state, and federal law and regulation.”

14.3 Notwithstanding Section 14.1, nothing in this Agreement is intended or shall be construed to affect or limit in any way the authority of the SCDHEC pursuant to 33 U.S.C. § 1341, and related state statutes and rules, to issue a 401 WQC, or to alter its 401 WQC, with whatever conditions the SCDHEC determines should be included. Nothing in this Agreement shall limit the right of the SCDHEC from enforcing its 401 WQC and from taking any steps within its discretion to protect and defend its authority, such as seeking rehearing of any FERC action regarding issues related to the exercise of SCDHEC’s authority with regard to its 401 WQC.

14.4 Nothing in this Agreement is intended or shall be construed to prevent any governmental body engaged in a public process from addressing issues included in this Agreement when raised before such governmental body in a public proceeding; provided, however, that addressing such issues in a public proceeding shall not relieve any Party that is a governmental body from its obligations to act consistently with this Agreement.

14.5 Nothing in this Agreement is intended to restrict, limit, interfere with, impede, or impair the rights, responsibilities, duties, or obligations of any governmental body in implementation of and in furtherance of its rights, responsibilities, duties, or obligations.

15.0 Parties’ Rights, Obligations and Restrictions During the Period when the FERC is Developing the New License and/or the SCDHEC is Developing the Water Quality Certification

15.1 Parties’ Rights, Obligations, and Restrictions Related to the FERC’s Licensing Process for Developing the New License

15.1.1 The Parties reserve the right to be actively involved in the FERC licensing, including by intervention, in a manner consistent with this Agreement.

15.1.2 During the period of this relicensing prior to the FERC’s issuance of the New License and the closure of all rehearing and administrative challenge periods, and except as allowed by Section 14.0, no Party may request or advocate by any means, including but not limited to intervention, filing comments with the FERC or any other agency, participating in public hearings or meetings, communicating with the media or in any public forum, encouraging, coaching or funding non-Parties to this Agreement, concurring with comments filed with the FERC or any agency, and communicating with or lobbying state or federal officials, for any New License requirements that would, if adopted by the FERC, be an Inconsistent Act.

15.1.3 Except as allowed by Section 14.0, during the period of this relicensing prior to the FERC’s issuance of the New License and the closure of all rehearing
and administrative challenge periods, no Party may request or advocate by any means, including but not limited to intervention, filing comments with the FERC or any other agency, participating in public hearings or meetings, communicating with the media or in any public forum, encouraging, coaching or funding non-Parties to this Agreement, concurring with comments filed with the FERC or any agency, and communicating with or lobbying state or federal officials, for New License reopeners of any kind beyond those that are included in the FERC’s standard L-Form applicable to this Project.

15.2 Parties’ Rights, Obligations and Restrictions during SCDHEC’s Process for Developing the 401 WQC

15.2.1 The Parties reserve the right to be actively involved in any 401 WQC process in a manner consistent with this Agreement.

15.2.2 During the period of this relicensing prior to the FERC’s issuance of the New License and the closure of all rehearing and administrative challenge periods, and except as allowed by Section 14.0, no Party may request or advocate by any means, including but not limited to intervention, filing comments with the FERC or any other agency, participating in public hearings or meetings, communicating with the media or in any public forum, encouraging, coaching or funding non-Parties to this Agreement, concurring with comments filed with the FERC or any agency, and communicating with or lobbying state or federal officials for, (i) any 401 WQC requirements or conditions that would result in an Inconsistent Act or (ii) 401 WQC reopeners of any kind other than a reopener for failure to comply with requirements of any 401 WQC.

16.0 Agreements on Action Steps when a Jurisdictional Body Imposes a Requirement that is an Inconsistent Act

16.1 If any Party believes the actions of a Jurisdictional Body, through the imposition of a requirement or the failure to impose any requirement on the Licensee, have resulted in an Inconsistent Act, the Party shall notify the other Parties pursuant to Section 23.0.

16.2 If notice is given pursuant to Section 16.1 the Licensee shall convene a meeting of all Parties to determine by consensus a course of action to: (i) work with the FERC and any appropriate Jurisdictional Body to pursue an alternative to the Inconsistent Act that is acceptable to all Parties and to the FERC and the Jurisdictional Body(ies); (ii) acceptably rebalance and modify this Agreement; or (iii) take such other actions as the Parties may agree upon to address the Inconsistent Act. If requested by any Party, mediation as described in Section 25.2 may be used to help reach consensus. The Parties shall use their best efforts to cooperatively implement this Section 16.2 to address the Inconsistent Act in a manner agreeable to all the Parties.

16.3 If the Parties modify this Agreement, pursuant to Section 19.0, to address the Inconsistent Act, the Licensee shall promptly file the Modified Agreement with the FERC, and any Party may take actions, such as submitting comments, consistent with the Modified Agreement. However, if all Parties do not agree to modify this Agreement to address the Inconsistent Act, then no Party may support the Inconsistent Act, and the Parties shall not modify this Agreement.
16.4 Any Party may pursue any available legal remedies (i.e., administrative or judicial review) to alter a proposed or final Inconsistent Act to conform to this Agreement whether or not that Party is simultaneously following the procedures in this Section 16.0. No Party shall oppose such legal remedies that seek only to conform the Inconsistent Act to this Agreement.

17.0 Review of Inconsistent Act Imposed by Jurisdictional Body that Substantially Negatively Affects a Party

17.1 A Party may initiate or maintain an action (e.g., administrative or judicial review), to contest an Inconsistent Act imposed by a Jurisdictional Body. Because this Agreement itself is legally enforceable, the omission of any proposed License Article from any authorization (including the New License and any 401 WQC), notwithstanding Section 16.0, shall not, by itself, be deemed an Inconsistent Act that conflicts with this Agreement. However, any Party may petition the issuing agency to include such Article in such authorization and may exhaust such administrative and related judicial processes. Conversely, the inclusion of any requirement of this Agreement in any authorization (including the New License and any 401 WQC) shall not, by itself, be deemed an Inconsistent Act that conflicts with this Agreement. However, any Party may petition the issuing agency to exclude such Article in such authorization and may exhaust such administrative and related judicial processes. No Party except the relevant Jurisdictional Body may oppose another Party’s action pursuant to this Section 17.1.

17.2 No Party will seek to use its status as a Party to this Agreement to establish standing or aggrieved-party status to challenge any action of any governmental agency that is also a Party to this Agreement when that governmental agency’s actions are pursuant to fulfilling its statutory duties.

17.3 If, after exhausting any legal reviews initiated pursuant to Section 17.1, any Party still believes the Jurisdictional Body’s action or omission is an Inconsistent Act and that it is substantially negatively affected by the Inconsistent Act, then that Party may initiate withdrawal pursuant to Section 21.0 by giving notice of its intent to withdraw from this Agreement pursuant to Section 23.0. No Party may give Notice of Intent to Withdraw until all administrative and judicial challenges regarding the issue over which the Party intends to withdraw have been finally resolved and until all time periods for further administrative or judicial review have expired when that governmental agency’s actions are complete pursuant to fulfilling its statutory duties.

18.0 Agreements on Action Steps upon Breach by Any Party

18.1 If any Party is alleged by any other Party to be in breach of this Agreement, the Party alleging the breach shall immediately notify, pursuant to Section 23.0, all Parties to this Agreement of the alleged breach and shall consult with the allegedly breaching Party to discuss the breach and reach a resolution satisfactory to all Parties. To allow for consultation, no Party may seek relief from a court or any other forum, including the FERC, concerning the alleged breach until sixty days have elapsed following the notice required in the preceding sentence, except that a Party may seek relief prior to the passing of the sixty days if the Party’s rights would be prejudiced by such delay.

18.2 If any Party has a credible reason to believe it or another Party may be unable to comply with any future obligation under this Agreement, including any schedule, the Party may inform the other Parties. The Licensee shall convene the Parties to attempt
to ensure clear communications concerning the potential breach and to identify actions that may be acceptable to all the Parties that would eliminate the concern relative to the potential breach.

18.3 The Parties agree to use their best efforts to cure any alleged breach of this Agreement in a reasonable and timely manner. If such best efforts and consultation fail to resolve the alleged breach or alleged anticipatory breach, any Party may pursue its legal remedies for any alleged breach or alleged anticipatory breach once the sixty-day period set forth in Section 18.1 has elapsed.

18.4 When any Party withdraws from this Agreement or is found to have breached this Agreement, the withdrawing or breaching Party is obligated to return any benefits previously obtained under this Agreement, if such benefits consist of monetary funds or interests in real property. The Parties acknowledge that no withdrawing or breaching Party ought to be able to withdraw from or breach this Agreement and retain benefits bargained for, and the Parties agree that this remedy is to be specifically enforceable.

19.0 Modification of this Agreement

19.1 Except as provided in Sections 3.4.8, 4.4, 6.2.4, 6.3.14.3, 6.4.2, 7.5.3.1, 7.6.2, 8.1.2, 8.3.4, 19.2, 19.3, and 23.0, any modification of any provision of this Agreement to become effective must be made in writing and, after notice of the modification is provided pursuant to Section 23.0, signed by an authorized representative of each Party except that a Party who fails to respond to such notice within 60 days shall be deemed to have consented to the proposed modification. Except as provided herein, nothing in this Agreement is intended to limit the Parties’ ability to modify this Agreement.

19.2 The Parties acknowledge that, for long-term clarity of this Agreement, it may be beneficial to remove from this Agreement those benefits and obligations that were conditioned on certain entities becoming Parties to this Agreement but are no longer benefits or obligations of this Agreement because these entities did not become Parties. The Parties agree that when considering modification of this Agreement, the Licensee shall also confer with the Parties to reform this Agreement for the limited purpose of reflecting accurately only the Parties’ benefits and obligations hereunder by deleting specific benefits and obligations of entities that were signatories to the AIP but declined to become Parties to this Agreement. If any signatories to the AIP decline to become Parties to this Agreement, the Licensee will circulate a reformed Agreement to all Parties, pursuant to the notice provision of Section 23.0, and such reformed Agreement shall automatically supersede this Agreement unless any Party objects by giving notice to the Licensee within 60 days of notice of the reformed Agreement.

19.3 Prior to December 2, 2013, a Party to this Agreement may seek to initiate a process for rebalancing this Agreement if there is a loss of Agreement provisions conditioned upon the Party and at least one other AIP Signatory signing this Agreement, when at least one of said AIP Signatories does not sign this Agreement. If the attempt to rebalance this Agreement is unsatisfactory, the Party may seek to withdraw without following the procedures in Section 16.0.

20.0 Parties’ Ability to Petition the FERC or SCDHEC

A Party may petition the FERC to amend the New License, pursuant to any reopener condition contained in the New License, or to take any other action with regard to the
21.0 Withdrawal from this Agreement

21.1 A Party may initiate withdrawal from this Agreement if it is substantially negatively affected by an Inconsistent Act and has followed the procedures in Section 16.0, as applicable, to attempt to remedy the cause for the withdrawal.

21.2 A Party may initiate withdrawal from this Agreement without following the procedures in Section 16.0 if it is substantially negatively affected by: (i) withdrawal of another Party, as set forth in Section 21.11; (ii) a new law or regulation that requires a Party to act in a manner that breaches this Agreement, as set forth in Section 32.0; (iii) the invalidation of a portion of this Agreement, as set forth in Section 33.6; or (iv) transfer of the Existing or New License to a transferee that is not bound by all the terms of this Agreement, as set forth in Section 33.15.

21.3 A Party shall initiate the withdrawal process by providing Notice of Intent to Withdraw to all Parties in accordance with Section 23.0. This Notice must include a brief, non-binding statement setting forth:

21.3.1 The date and nature of the Inconsistent Act, or other event giving rise to the right to withdraw, including a reference to the specific section of this Agreement under which withdrawal is permitted; and

21.3.2 (i) If withdrawal is based on an alleged Inconsistent Act, how the alleged Inconsistent Act meets the definition of “Inconsistent Act” and how it conflicts with this Agreement; and (ii) how the alleged Inconsistent Act or event listed in Section 21.2 substantially negatively affects the withdrawing Party.

21.4 If any Party opposes the withdrawal, that Party shall submit a notice, pursuant to Section 23.0, to the withdrawing Party indicating that it opposes withdrawal and seeks arbitration of the Party’s right to withdraw.

21.5 If, after 60 days from the Notice of Intent to Withdraw, no Party opposes the withdrawal, the withdrawal is final.

21.6 Within 30 days of the notice opposing withdrawal, the withdrawing Party shall post an Arbitration Escrow Fee of $2,000. The Arbitration Escrow Fee shall be made payable to an acceptable escrow agent, which may be the Licensee, and shall bear a notation that it is to be held in escrow. Once the arbitrator is selected, the withdrawing Party shall ensure that the escrow agent may release the funds to the arbitrator upon proof of the withdrawing Party’s failure to pay its share of the arbitration costs. If the withdrawing Party fails to post the Arbitration Escrow Fee in a timely manner, it shall thereby waive its right to withdraw based on the Inconsistent Act or other event cited in the withdrawal notice.
21.7 The arbitrator shall be selected and the arbitration conducted pursuant to the procedures of the American Arbitration Association under its Commercial Arbitration Rules. The arbitrator's decision shall be binding only as to the Parties before it.

21.8 Withdrawal shall be allowed only if the arbitrator determines that the withdrawing Party substantially complied with all material procedural prerequisites to withdraw specified in this Agreement and:

21.8.1 A requirement imposed by a Jurisdictional Body (i) conflicts with this Agreement and (ii) is an Inconsistent Act that substantially negatively affects the withdrawing Party; or

21.8.2 The withdrawing Party was substantially negatively affected by the withdrawal of another Party, as set forth in Section 21.11; or

21.8.3 A new law or regulation requires a Party to act in a manner that breaches this Agreement, as set forth in Section 32.0, and that breach substantially negatively affects the withdrawing Party; or

21.8.4 A portion of this Agreement is invalidated which results in the withdrawing Party's being substantially negatively affected, as set forth in Section 33.6; or

21.8.5 The Existing or New License is transferred to a transferee that is not bound by all the terms of this Agreement which results in the withdrawing Party's being substantially negatively affected, as set forth in Section 33.15.

21.9 An effective withdrawal relieves the withdrawing Party of its performance obligations under this Agreement.

21.10 The costs of the arbitration shall be shared equally between the Party seeking withdrawal (50 percent) and the combination of Parties requesting arbitration (50 percent). The Parties shall request that the arbitrator invoice each Party separately. Any unused amounts of the Arbitration Escrow Fee will be returned to the withdrawing Party.

21.11 Upon withdrawal of any Party, any other Party (hereinafter “Second Party”) may exercise its right to withdraw pursuant to the procedures set forth in this Section 21.0, except that, if the issue goes to arbitration, withdrawal shall be allowed only if the arbitrator determines that (i) the Second Party substantially complied with all procedural prerequisites to withdrawal specified in this Agreement; and (ii) the previous withdrawal of another Party will substantially negatively affect the Second Party.

21.12 No Party is required to pursue administrative or judicial remedies prior to withdrawing; however, no Party may give Notice of Intent to Withdraw until all administrative and judicial challenges, if any, regarding the issue over which the Party intends to withdraw have been finally resolved and until all time periods for further administrative or judicial review have expired. Any right to withdraw is waived if the Party does not give Notice of Intent to Withdraw within 180 days of the expiration of the last time period for administrative or judicial review of a matter related to the reason for withdrawal.

21.13 If a Party is prohibited by law from submitting to binding arbitration, then, after that Party has provided Notice of Intent to Withdraw and after another Party has given notice of its opposition to withdrawal, as set forth in Section 21.4, the Party seeking to withdraw shall give notice to all Parties pursuant to Section 23.0 that it is prohibited by law from submitting to binding arbitration and shall provide with such notice evidence of the legal prohibition and shall within 30 days following provision of its notice of
prohibition to submit to arbitration, file an action for declaratory judgment: (i) seeking the
court’s determination of its legal right to withdraw pursuant to the terms of this
Agreement; and (ii) naming the Party opposing withdrawal as the defendant. The
withdrawing Party shall serve notice of its filing of the declaratory judgment action on all
Parties to allow any Party the opportunity to intervene. The court shall use the criteria
set forth in Section 21.0 and sections cross-referenced therein to determine whether a
Party seeking to withdraw is entitled to withdraw under this Agreement. If the Party
seeking to withdraw fails to file an action for declaratory judgment within 30 days
following its notice to the Parties of its prohibition to submit to arbitration, then it shall
thereby waive its right to withdraw based on the Inconsistent Act or other event cited in
the withdrawal notice.

21.14 Any opposition to any withdrawal shall be ineffective if the arbitrator determines
that the Party opposing withdrawal failed to give notice to the withdrawing Party as
required in Section 21.4.

22.0 Termination of this Agreement

This Agreement, and all obligations arising hereunder, shall terminate and be of no
further force or effect upon withdrawal of the Licensee, upon the expiration or other
termination of the term of the New License and any annual licenses issued thereafter, or
upon transfer of the license to a subsequent licensee that is not bound by any part of this
Agreement.

23.0 Notice

Each Party shall designate a representative for the receipt of notices. All notices
required to be given under this Agreement shall be in writing and be given by personal
delivery, overnight express service, or U.S. mail to each Party using the contact
information set forth in this Agreement and included as Appendix B. The sender shall
retain proof of posting or delivery, and notices shall be effective upon the date and time
identified on the proof of posting or delivery. The Licensee will be responsible for
maintaining the contact information included as Appendix B. A Party may change the
contact information or the designated representative by notifying the Licensee of such
change, and such change will not be considered a modification of this Agreement. Each
Party shall be responsible for providing the Licensee with their updated contact
information in a timely and accurate manner. If a Party no longer exists at the time that
notice is required to be given by this Agreement, notice to such Party is not required. If
a Party required to give notice knows that another Party’s designated representative is
deceased or is no longer employed by and/or affiliated with such other Party, the Party
required to give notice must make a reasonably diligent effort to provide notice to an
appropriate person affiliated with such other Party. A “reasonably diligent effort” shall
include notice to any person upon whom process could be served under the Federal
Rules of Civil Procedure in effect at the time that notice is required to be given.

24.0 Licensed Project Cessation

24.1 In the event the Licensee decides to surrender the New License prior to its
expiration or the United States takes over the Project, the Licensee agrees to take the
following actions.
24.1.1 Notify all Parties pursuant to Section 23.0 and convene a meeting for all Parties no later than 30 days after its decision to surrender the Project in whole or in part, or becoming aware that the United States may take over the Project in whole or in part.

24.1.2 Notify all Parties at least 60 days prior to the Licensee’s filing at the Commission an application to surrender its License in whole or in part.

24.1.3 Negotiate in good faith with the SCDNR, the SCDPRT, and any other interested Party with the objective of ensuring continued public access to Project Reservoirs through the remaining period of the New License term for those properties designated for public access in the New License and that will continue to be owned by the Licensee.

24.1.4 Negotiate in good faith with the SCDNR, SCDPRT, and any other interested Party to develop a plan for managing lands and waters within the Project Boundaries.

24.1.5 Negotiate in good faith with each public water supplier authorized to withdraw water from any Project Reservoir to assure continued access by public water suppliers to such reservoir and other necessary facilities, including land through the remaining period of the New License term.

24.1.6 Within 180 days after becoming aware that any of the Project’s developments will no longer be licensed by the FERC or after filing an application with the FERC to surrender the license for any of the Project’s developments, and provided the Licensee desires to close and/or sell any affected Licensee-owned recreation land or facilities at the Project, then provide notice to all Parties that are tribal or governmental bodies, pursuant to Section 23.0, to offer to sell the affected Licensee-owned recreation land and facilities at the appraised market value, as determined by the average of two appraisals completed in accordance with Appraisal Institute standards, one appraisal to be paid for by Licensee and the other to be paid for by the first tribal or governmental entity that notifies the Licensee, pursuant to Section 23.0, of its desire to acquire Licensee-owned recreation land and facilities. Any said recreation land or facilities that are leased to a Party to this Agreement will first be offered for sale to the lessee under the same arrangements above in this Section 24.1.6 for a period of 60 days. An offer to acquire such facilities by a tribal or governmental entity may be for all or any portion of such Licensee-owned recreation land and facilities. 180 days after providing such notice of an offer to sell, the Licensee shall be free to sell to any entity any affected Licensee-owned recreation land or facilities for which the Licensee does not receive an acceptable purchase option from a Party that is a tribal or government entity.

25.0 Dispute Resolution

25.1 Dispute Resolution – Except as otherwise specifically provided in this Agreement, disputes among Parties arising under or related to this Agreement or the New License shall be resolved as follows.
25.1.1 Consultation

25.1.1.1 Any Party alleging a dispute shall notify the Licensee. The Licensee shall notify all Parties pursuant to Section 23.0 and shall give at least 15 days notice of a meeting scheduled to resolve the dispute. The Party alleging a dispute and each Party that attends such meeting or notifies all other Parties pursuant to Section 23.0 of the Party’s interest in the resolution of the alleged dispute shall be considered to be an “Interested Party.” The meeting notice shall describe the dispute and shall provide the time and location of the meeting. All Parties who are Interested Parties agree to engage in good-faith negotiations to resolve the dispute for a period of at least 45 days (“Consultation Period”) from the date of notice provided by the Party alleging a dispute in an effort to resolve the dispute; except that, in emergency situations, or if required to preclude the running of any applicable limitations period, an Interested Party may, for good cause, seek relief prior to the expiration of the 45-day period.

25.1.1.2 The Interested Parties may agree to extend the Consultation Period up to an additional 75 days and may employ a mediator. To the extent allowed by law, the Parties shall consider any applicable limitations period, whether arising by statute, regulation, contract, or otherwise to be tolled during the Consultation Period. No Party shall raise as a defense to any action, whether judicial or administrative, the running of any period of limitation, so long as the action was filed within the limitations period plus the Consultation Period.

25.1.1.3 The Consultation Period ends when the times described above expire or when all Interested Parties except one indicate that consultation is no longer useful, whichever is sooner.

25.1.2 Consensus – Upon resolution of a dispute, by agreement or otherwise, the Interested Parties shall notify all Parties of the resolution. A resolution based on consensus shall have the unanimous support of all Interested Parties and no opposition from any other Party. Any resolution that requires modification of this Agreement requires written approval signed by all Parties, pursuant to Section 19.0.

25.1.3 Remedies – If, after the Consultation Period, the Interested Parties have not reached consensus, or in the event a schedule to cure an alleged noncompliance has been established through Consultation and a Party has not cured the failure within the time established, any Interested Party may seek resolution as follows.

25.1.3.1 Provisions of this Agreement that are Also Included in the New License – For disputes related to License Articles, a Party shall petition the FERC to enforce the License Article with which the Licensee is alleged to have failed to comply. If FERC enforces any alleged failure to comply with a License Article, such enforcement action shall be the sole remedy under this Agreement. If the FERC finds that a violation occurred but affirmatively declines to enforce a License Article or fails to act within a reasonable time after a petition to enforce has been filed, which period of time shall not be less than 180 days from the date on which the petition was filed, then such Party may file with the FERC a petition for rehearing regarding the alleged failure and pursue any further remedies, including judicial review. Once the
180-day period has expired or FERC has affirmatively indicated that it will not take enforcement action (whichever occurs sooner), any Party may seek to enforce, by any available means, any provision of this Agreement that was also incorporated into the New License, except that any Party may file such action sooner in order to preclude the running of any applicable limitations period. If any Party has sought direct review of any FERC action related to enforcement, the Party may not seek to enforce by other means until that action is resolved and any applicable review periods have expired.

25.1.3.2 Provisions of this Agreement that are Not Also Included in the New License – For disputes not related to License Articles, a Party shall seek resolution in a court or agency of competent jurisdiction.

25.2 Mediation Services

25.2.1 Any Party may propose the use of a professional mediator to facilitate dispute resolution. To initiate professional mediation, a Party shall notify all Parties pursuant to Section 23.0 and shall convene a meeting not sooner than 15 days nor more than 30 days following notice. Such notice shall state the date, time, and location of the initial meeting to consider mediation. At that initial meeting all Parties in attendance shall determine their interest in mediation. Mediation is purely voluntary, and no Party shall be compelled against its will to participate in mediation.

25.2.2 Those Parties agreeing to mediation shall execute a contractually binding agreement with a professional mediator, and such agreement shall determine both how the mediating parties will share the cost of mediation and the schedule to undertake and complete mediation. No Party that chooses not to participate in mediation shall be responsible for any costs related to mediation. No mediated resolution shall modify this Agreement unless all the Parties so modify this Agreement pursuant to Section 19.0.

26.0 Adjustment for Inflation / Deflation

26.1 Unless otherwise indicated in this Agreement, all costs or payment amounts in this Agreement that are specified in dollars and are to be paid by the Licensee shall be adjusted on an annual basis starting on January 1, 2015 and January 1 of each following year according to the following formula:

\[ AD = \frac{(D \times \text{NGDP})}{\text{IGDP}} \]

Where:

- \( AD \) = Adjusted dollar amount as of January 1 of the year in which the adjustment is made (or, in the case of the first adjustment, 2015).
- \( D \) = Dollar amount prior to adjustment.
- \( \text{NGDP} \) = GDP-IPD for the third quarter of the year before the adjustment date (or, in the case of the first adjustment, 2014).
- \( \text{IGDP} \) = GDP-IPD for the third quarter of the year before the previous adjustment date (or, in the case of the first adjustment, 2013).

26.2 "GDP-IPD" is the value published for the Gross Domestic Product Implicit Price Deflator by the U.S. Department of Commerce, Bureau of Economic Analysis in the
publication “Survey of Current Business” (being on the basis of 2005 = 100), in the third month following the end of the applicable quarter. If that index ceases to be published, any reasonably equivalent index published by the Bureau of Economic Analysis may be substituted. If the base year for GDP-IPD is changed or if publication of the index is discontinued, the Licensee shall promptly make adjustments or, if necessary, select an appropriate alternative index to achieve the same economic effect. Adjusted amounts will be rounded to the nearest whole dollar.

27.0 Ability of Parties to Request FERC Approvals or New License Amendments Related to Non-Project Use Requests

27.1 Nothing in this Agreement shall impair or supersede the right of any Party to apply for and/or support, including by intervention, an amendment to the New License or other order from the FERC authorizing any entity to expand or modify an existing water intake or to add a new water intake, unless such amendment is specifically prohibited in this Agreement.

27.2 Unless such action is specifically prohibited in this Agreement, nothing in this Agreement shall impair or supersede: (i) any Party’s right to file with the Licensee a Non-Project Use request that is in compliance with the SMG or to support (e.g., provide comments on individual lake use permit applications, such as marinas, multi-slip facilities, etc.), including by intervention, that request with the FERC; (ii) any Party’s right to support, oppose, or request modification to such a request with the FERC; or (iii) any Party’s legal obligations related to such requests.

27.3 Nothing in this Agreement is intended to or may be construed to alter, modify, amend, or in any way impact or affect state law applicable to the Non-Project Use requests.

28.0 Parties’ Participation in Future Relicensings and 401 WQC

28.1 Nothing in this Agreement shall be construed to restrict any Party’s participation or comments in future relicensings or 401 WQC related to licenses for this Project beyond the New License.

28.2 Nothing in this Agreement shall be construed to restrict any Party’s participation in any other FERC licensing proceeding including any other project for which Duke Energy Carolinas, LLC is the licensee.

29.0 Early Implementation

Unless otherwise prohibited in the New License, the Existing License, or this Agreement, the Licensee at its own discretion may choose to voluntarily implement, partially or in full, any of the operational changes or its other obligations called for in this Agreement earlier than the dates indicated in this Agreement.

30.0 Coordination with the Licensee’s Budgeting Cycle

Unless otherwise specified in this Agreement, the timing for financial contributions from the Licensee described in this Agreement will be coordinated with the Licensee’s budgeting cycle. The Licensee’s contributions will become available the latter of any of
the following: (i) January 1 of the first calendar year after the issuance of the New License and the closure of all rehearing and administrative challenge periods if the date for financial contribution is on or before June 30; or (ii) January 1 of the second calendar year following the issuance of the New License and the closure of all rehearing and administrative challenge periods if the date for financial contribution is after June 30.

31.0 Assessments and Procedures for New Information or Material Mistakes

A Party that becomes aware of significant new information or a material mutual mistake may bring that information to the Licensee and/or may convene a meeting of all Parties pursuant to Section 23.0, inviting Parties to meet to discuss a modification of this Agreement pursuant to Section 19.0. No Party may use new information as a defense to an alleged breach of this Agreement, as a basis for taking an action inconsistent with this Agreement, or as a basis to withdraw from this Agreement.

32.0 Procedures for New Law or Regulation

Should any new law, regulation, or other regulatory action, such as a permit or License requirement, require a Party to breach this Agreement (including, without limitation, for a governmental Party, denying that Party’s funds with which to fulfill its obligations under this Agreement), such Party shall not be liable for such breach. Should a new law or regulation require a Party to act in a manner that breaches this Agreement, then any other Party that believes it is substantially negatively affected thereby may withdraw from this Agreement by following the procedures in Section 21.0. If arbitration is initiated, withdrawal shall be allowed only if the arbitrator determines that: (i) the withdrawing Party substantially complied with all procedural prerequisites to withdrawal specified in this Agreement; (ii) there is no adequate remedy at law or in equity for the breach and the breach substantially negatively affects the withdrawing Party; and (iii) the breach was required by or the unavoidable result of the new law or regulation.

33.0 Miscellaneous Agreements

33.1 No Admission of Liability – This Agreement is a compromise of many interests. The actions taken pursuant to this Agreement are not intended nor shall they be construed as an admission on the part of any Party, or its agents, representatives, attorneys or employees that such Party was so obligated in any manner independent of this Agreement. Except as provided herein, no Party shall be prejudiced, prevented, or estopped from advocating in any manner or before any entity, including the FERC or any state agency, any position inconsistent with those contained in this Agreement regarding the licensing, permitting, and license compliance of this or any other hydropower project.

33.2 Agreement Terms Contractual – The terms of this Agreement are contractual and not mere recitals. This Agreement, including Appendices A through I, constitutes the entire Agreement between the Licensee and the other Parties with respect to the subject matter hereof, and all prior contemporaneous or other oral or written statements, representations or agreements by, between or among any of the Parties, including the AIP, are superseded hereby. However, nothing herein alters any valid easement, lease, user’s agreement, or permit previously granted or issued by the Licensee to any entity that is a Party to this Agreement for use of Project land or Project waters including, without limitation: (i) the water removal easement granted to the City of Seneca in the
Water Contract dated March 31, 1969, which is incorporated by reference, and (ii) the Indenture and Agreement, effective January 31, 1973, by and between the Licensee and Greenville Water, which is incorporated by reference.

33.3  **Enforceability** – As noted in Section 25.1.3, all terms of this Agreement not incorporated as License Articles shall be enforced through remedies available under applicable state or federal law.

33.4  **Force Majeure** – The Parties agree neither the Licensee, nor any other Party, shall be in breach of this Agreement to the extent any delay or default in performance is due to causes beyond the reasonable control of the delayed or defaulting Party; provided the delayed or defaulting Party notifies the other Parties as soon as possible of: (i) the event; (ii) the expected duration of the event; and (iii) the delayed or defaulting Party's plan to mitigate the effects of the delay or default. Such causes may include, but are not limited to, natural disasters, labor or civil disruption, acts of terrorism, the inability to secure any legal authorization from another entity (e.g., a permit or license) where such legal authorization is a prerequisite or requirement for complying with this Agreement, or breakdown or failure of the Project works, provided such causes are beyond the reasonable control of the delayed or defaulting Party.

33.5  **Applicable Law and Venue** – The Parties agree that all actions arising wholly within North Carolina must be litigated in courts located in the State of North Carolina and shall be governed by North Carolina law; those actions arising wholly within South Carolina must be litigated in courts located in the State of South Carolina and shall be governed by South Carolina law; where an action arises in both states, or in the case in which an act or omission giving rise to an action to enforce this Agreement occurred in neither state or its state of origin cannot be determined, the action must be litigated in courts located in either the State of North Carolina or the State of South Carolina, and laws of the state where the action is brought shall govern. The Parties agree that such courts are convenient forums and irrevocably submit to the personal jurisdiction of such courts, except that the governmental bodies who are Parties do not by entering into this Agreement waive sovereign immunity, and such Parties waive such defense only to the extent required by law, if at all.

33.6  **Severability** – Should any provision of this Agreement or part hereof be held under any circumstances in any jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision of this Agreement or other part of such provision. If such invalidity or unenforceability substantially negatively affects any Party, that Party may withdraw from this Agreement pursuant to the procedures established in Section 21.0. If arbitration is initiated, withdrawal shall be allowed only if the arbitrator determines that: (i) the withdrawing Party substantially complied with all procedural prerequisites to withdrawal specified in this Agreement; and (ii) the unenforceability or invalidity of the relevant part of this Agreement substantially negatively affects the withdrawing Party.

33.7  **Waiver Independence** – No consent to or waiver of any provision of this Agreement shall be deemed either a consent to or waiver of any other provision hereof, whether or not they are similar, or a continuing consent or waiver, unless otherwise specifically provided.

33.8  **Definitions** – The terms, phrases, and abbreviations defined in this Agreement and Appendix C, Appendix D, Appendix E, and Appendix I hereto, when used in this Agreement, shall have the meanings as defined in this Agreement and Appendix C, Appendix D, Appendix E, and Appendix I.
33.9 **Water Rights Unaffected** – This Agreement does not release, deny, grant or affirm any property right, license, or privilege in any waters or any right of use in any waters nor impact or affect any requirements or obligations under state law. This Agreement does not authorize any person or entity to interfere with the riparian rights, littoral rights, or water use rights of any other kind of any other person or entity. No person or entity shall interpose this Agreement as a defense in an action respecting the determination of riparian or littoral rights or other water use rights.

33.10 **Parties' Own Costs** – Except as expressly provided for in this Agreement, all Parties are to bear their own costs of participating in this Agreement.

33.11 **Existing Laws** – Unless otherwise noted, any reference to any statute, regulation, or other document refers to the statute, regulation, or document as it exists on the date of the first signature on this Agreement. No changes to any document to which this Agreement refers are incorporated into this Agreement, unless explicitly provided for in this Agreement or unless such change is made in accordance with Section 19.0.

33.12 **No Third-Party Beneficiary** – This Agreement shall not create any right in any individual or entity that is not a Party hereto or in the public as a third-party beneficiary. This Agreement shall not be construed to authorize any such third party to initiate or to maintain a suit in law or equity or other administrative proceeding.

33.13 **No Commitment of Funds** – Nothing in this Agreement shall be construed as obligating any federal, tribal, state, or local agency to expend in any fiscal year any sum in excess of appropriations made by Congress, tribal councils, or state or local legislatures; administratively allocated for the purpose of this Agreement for the fiscal year or to involve any federal, tribal, state, or local agency in any contract or obligations for the future expenditure of money in excess of such appropriations or allocations.

33.14 **No Government Agency Delegation** – Nothing in this Agreement shall be construed as requiring or involving the delegation by any governmental agency to any other body of any authority entrusted to it by Congress, tribal council, or by the legislature of any state.

33.15 **Successors and Assigns** – This Agreement shall apply to, and be binding on, the Parties and their successors and assigns. No change in ownership of or transfer of the New License for the Project, or any of its developments shall in any way modify or otherwise affect any Party's interests, rights, responsibilities, or obligations under this Agreement. Unless prohibited by applicable law, the Licensee of the Project shall provide that, in any transfer of the Existing or New License for the Project, such subsequent licensee shall be bound by, and shall assume the rights and obligations of, this Agreement upon completion of the change of ownership and, as applicable, approval by the FERC of the license transfer. The Licensee shall provide notice to the other Parties at least 90 days prior to completing such transfer of the Existing or New License. Notwithstanding the foregoing provisions of this Section, if any subsequent licensee is only partially bound by the terms of this Agreement, any Party that believes that it is substantially negatively affected by the fact that the subsequent licensee is only partially bound by this Agreement may initiate withdrawal from this Agreement pursuant to the procedures established in Section 21.0. If arbitration is initiated, withdrawal shall be allowed only if the arbitrator determines that: (i) the withdrawing Party substantially complied with all procedural prerequisites to withdrawal specified in this Agreement; and (ii) the fact that the subsequent licensee is only partially bound by this Agreement substantially negatively affects the withdrawing Party.
33.16 **Damages** – Damages at law are an inadequate remedy to redress any prospective or continuing breach of this Agreement and any Party shall be entitled to specific performance only regarding such breach, and no Party may bring an action seeking monetary damages but shall be limited to seeking specific performance, injunctive, or declaratory relief. This Section shall not be construed to prohibit any Party from receiving money in settling any claim arising from a prospective or continuing breach.

33.17 **Limitation of Applicability** – This Agreement is made on the express understanding that it constitutes a negotiated settlement of issues specific to the Project. No Party shall be deemed, by virtue of execution of this Agreement, to have established precedent, or admitted or consented to any fact, opinion, approach, methodology, or principle except as expressly provided herein. In the event this Agreement is approved by the FERC, such approval shall not be deemed precedential or controlling regarding any particular issue or contention in any other proceeding.

33.18 **Execution in Counterparts** – This Agreement may be executed in separate counterparts, with each counterpart deemed to be an original having the full force and effect thereof, but with all such counterparts, taken together, constituting but one and the same document.

33.19 **Full Legal Authority** – Each Party to this Agreement represents that it has the full legal authority to execute this Agreement and that its signatory is authorized to bind the Party (principal) that it represents, and that by such representative's signature, such principal shall be bound upon full execution of this Agreement.

33.20 **Timing** – In various places throughout this Agreement, the following phrase related to timing of actions appears: “within ___ year(s) following the issuance of the New License, the end of all appeals, and the closure of all rehearing and administrative challenge periods.” The Parties acknowledge and agree that this phrase is intended to define the end of all periods during which someone may contest the validity of the New License or the 401 WQC, and it is further intended to make clear that certain required actions, described by this phrase, do not become requirements obligating Parties to act until all opportunities to contest or appeal the New License or the 401 WQC have come to a complete and final end.
SIGNATURES OF THE PARTIES

DUKE ENERGY CAROLINAS, LLC

By: [Signature]

Steven D. Jester
Vice President
Water Strategy, Hydro Licensing & Lake Services

11/20/13
(Date)
By: [Signature]

Joseph M. Smith
President

(Date)

11/20/13
ANDERSON AREA CHAMBER OF COMMERCE

By:  

Howard D. Spencer

(Date)

11-20-13
CITY OF SENECA

By:  
Gregory P. Dietterick  
City Administrator  

11-20-13  
(Date)

By:  
Robert W. Faires, III  
Director of Utilities  

11/20/13  
(Date)
COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF GREENVILLE

By: [Signature]

David Bereskin
Chief Executive Officer

(Date) 11-20-13
FRIENDS OF LAKE KEOWEE SOCIETY, INC.

By: ____________________________  11/20/2013

Ben Turetzky
Executive Director

(Date)
OCONEE COUNTY, SOUTH CAROLINA

By: _____________________________
   Joel Thrift, Chairman
   Oconee County Council

(Date)
PICKENS COUNTY, SOUTH CAROLINA

By:  
G. Neil Smith, Chairman  
Pickens County Council  

(Date)
PICKENS COUNTY WATER AUTHORITY

By: [Signature]  
William H. Smith, Jr.  
Chairman

20 Nov 2013 (Date)
SOUTH CAROLINA DEPARTMENT OF ARCHIVES AND HISTORY

By: Dr. W. Eric Emerson
Director

(Date) 11-21-13
SOUTH CAROLINA DEPARTMENT OF NATURAL RESOURCES

By: [Signature]  
Alvin A. Taylor  
Director

(Date) 11-18-13
SOUTH CAROLINA WILDLIFE FEDERATION

By: ___________________________ [Signature]
    Wes Cooler
    [Date]

By: ___________________________ [Signature]
    Dave Hargett
    20 Nov 2013
    [Date]
THE CLIFFS AT KEOWEE VINEYARDS COMMUNITY ASSOCIATION, INC.

By: Jim Burgner

(Date)

By: R. A. McGimpsey
President

(Date)
THE RESERVE AT LAKE KEOWEE

By: C. A. Niemeyer
   Keowee River Club, LLC, Owner and Developer
   11-20-13
   (Date)

By: A. J. Thompson
   Keowee River Club, LLC, Owner and Developer
   11/20/13
   (Date)
UPSTATE FOREVER

By: Brad Wyche
   Executive Director
   11-20-2013
   (Date)

By: Van Whitehead
   Deputy Director
   11-20-2013
   (Date)
WARPATH DEVELOPMENT, INC.

By: ___________________________  11-20-13
Tim Roberson
(Date)
(intentionally blank)
APPENDIX A

PROPOSED LICENSE ARTICLES

This Agreement represents a balance of many interests and is the culmination of years of negotiation by the Parties. While the Parties recognize the FERC is not constrained by this Agreement, the Parties wish to emphasize that, if the FERC acts inconsistently with this Agreement, it may result in the withdrawal from this Agreement of one or more Parties and could result in the termination of this Agreement. To avoid that result, the Parties respectfully request the following proposed License Articles in this Appendix A be incorporated without material modification into any New License the FERC may issue for the project and that the New License term be at least 40 years.

A-1.0 Reservoir Elevation Article

ARTICLE – Reservoir Elevations

(A) Reservoir Elevations – Within 60 days following the issuance of this license, to protect and enhance the project's values that may be affected by reservoir level fluctuations, the Licensee shall maintain the elevations of the project reservoirs between the Normal Minimum and Normal Maximum Elevations indicated in the table below.

<table>
<thead>
<tr>
<th>Reservoir</th>
<th>Normal Maximum Elevation (ft local datum / ft AMSL)</th>
<th>Normal Minimum Elevation (ft local datum / ft AMSL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Jocassee</td>
<td>100.0 / 1110.0</td>
<td>86.0 / 1096.0</td>
</tr>
<tr>
<td>Lake Keowee</td>
<td>100.0 / 800.0</td>
<td>96.0 / 796.0</td>
</tr>
</tbody>
</table>

(B) Temporary Variances – The reservoir elevation requirements outlined in Paragraph (A) above may be temporarily modified if required by conditions beyond the control of the Licensee, for short periods during annual inspection and repairs, or by operating emergencies or maintenance needs as defined in the Commission-approved Low Inflow Protocol (LIP) or Maintenance and Emergency Protocol (MEP). When implementing the LIP or MEP, the Licensee shall notify the Commission of modifications to the reservoir elevation requirements in accordance with the requirements of the LIP or MEP. For all other modifications in reservoir elevation requirements, the Licensee shall notify the Commission as soon as possible, but no later than 10 days after each event and shall provide the reason for the change in reservoir levels.

END OF PROPOSED LICENSE ARTICLE
A-2.0 Low Inflow Protocol Article

ARTICLE – Low Inflow Protocol for the Keowee-Toxaway Hydroelectric Project

(A) The Low Inflow Protocol (LIP) for the Keowee-Toxaway Hydroelectric Project filed with the license application as Appendix D of the Relicensing Agreement is approved and incorporated into this license and the Licensee shall implement the LIP.

(B) The Licensee may modify the LIP in accordance with the procedures in the LIP. The Licensee may also make temporary modifications to the LIP to account for any changed physical conditions at the Keowee and Jocassee developments. The Licensee shall notify the Commission of any such modifications in accordance with the LIP. Any modifications may be subject to Commission approval.

END OF PROPOSED LICENSE ARTICLE

A-3.0 Maintenance and Emergency Protocol Article

ARTICLE – Maintenance and Emergency Protocol for the Keowee-Toxaway Hydroelectric Project

Hydroelectric Project

(A) The Maintenance and Emergency Protocol (MEP) for the Keowee-Toxaway Hydroelectric Project filed with the license application as Appendix E of the Relicensing Agreement is approved and incorporated into this license and the Licensee shall implement the MEP.

(B) The Licensee may make minor changes as necessary to the MEP for the Keowee-Toxaway Hydroelectric Project. The Licensee may also make temporary modifications to the MEP to account for any changed physical conditions at the Jocassee and Keowee developments. The Licensee shall notify the Commission of any such temporary modifications in accordance with the MEP. Any modifications may be subject to Commission approval.

END OF PROPOSED LICENSE ARTICLE
A-4.0 Historic Properties Article

**ARTICLE – Historic Properties**

The Licensee shall implement any existing Programmatic Agreement for the project regarding Historic Properties management and protection including, but not limited to, the Historic Properties Management Plan (HPMP) for the project. In the event that the Programmatic Agreement is terminated, the Licensee shall continue to implement the provisions of its approved HPMP. The Commission reserves the authority to require changes to the HPMP at any time during the term of the license.

END OF PROPOSED LICENSE ARTICLE

A-5.0 Public Recreation Articles

**ARTICLE – Recreation Management Plan**

(A) The Recreation Management Plan (RMP) filed with the license application is approved and incorporated into this license and the Licensee shall implement the RMP.

(B) For the first 10 years following the issuance of this license, the Licensee shall file with the Commission by March 1 of each year a report of the progress made by the Licensee on completing the measures in the RMP during the previous calendar year.

(C) The Commission reserves the right to require changes to the RMP and the Licensee shall implement the changes.

END OF PROPOSED LICENSE ARTICLE

**ARTICLE – Recreation Planning**

(A) No later than September 1, 2031, the Licensee shall consult with the South Carolina Department of Parks, Recreation and Tourism (SCDPRRT) and the South Carolina Department of Natural Resources (SCDNR) to develop a plan to conduct a Recreation Use and Needs Study. The Recreation Use and Needs Study shall include at least the following: (1) a review of existing recreation resources, (2) an analysis of recreational use at the Project Access Areas and the need for additional recreation amenities, (3) a review of agency current recreation and/or land use management plans relevant to the project, and (4) a discussion of the need for any changes to the Recreation Management Plan.

(B) The Licensee shall complete the Recreation Use and Needs Study no later than December 31, 2032, and provide a draft of the study report to the agencies in Paragraph (A) for review and comment. The Licensee shall allow at least 30 days for the agencies to review and comment. The Licensee shall file the report with the Commission for approval and include documentation of consultation including copies of comments and recommendations on the draft report.
(C) Based upon the results of any Recreation Use and Needs Study conducted in accordance with Paragraph (B), the Licensee shall file a revised and updated Recreation Management Plan (RMP) no later than December 31, 2033. The Licensee shall include with its RMP documentation of consultation with the above agencies, local governments and other interested parties; copies of comments and recommendations on the draft RMP; and specific descriptions of how the agencies', local governments', and other interested parties' comments and recommendations are accommodated by the draft new RMP. The Licensee shall allow a minimum of 30 days for the agencies, local governments, and other interested parties to comment on the draft revised and updated RMP prior to filing it with the Commission for approval. If the Licensee does not adopt a recommendation, the filing shall include the Licensee’s reasons.

(D) The Commission reserves the right to require changes to any revised and updated RMP developed in accordance with the above. The Licensee shall implement any revised and updated RMP as approved by the Commission, including any changes required by the Commission.

END OF PROPOSED LICENSE ARTICLE

A-6.0 Shoreline Management Articles

ARTICLE – Shoreline Management Plan

(A) The Shoreline Management Plan (SMP) filed with the license application is approved and incorporated into this license and the Licensee shall implement the SMP.

(B) The Licensee may make minor changes to the Shoreline Management Guidelines (SMG) and the Shoreline Classification Maps and associated Lake Use Restrictions to protect newly discovered resources such as archaeological or historic sites, Threatened or Endangered Species, Special Concern Species, or to correct mapping errors. The Commission reserves the right to review such changes.

(C) The Commission may require changes to the SMP at any time during the term of this license.

END OF PROPOSED LICENSE ARTICLE

ARTICLE – Shoreline Management Plan Review and Update Procedures

(A) At ten years following the issuance of this license, and every ten years thereafter for the term of this license, the Licensee shall file with the Commission, for approval, a revised Shoreline Management Plan (SMP). In developing the revised SMP, the Licensee shall, at least one year prior to the due date for each revised SMP submittal, convene and consult with a workgroup consisting of the South Carolina Department of Parks, Recreation and Tourism, the South Carolina Department of Natural Resources, and the U.S. Fish and Wildlife Service to review the implementation of the SMP and to recommend potential modifications. The Licensee shall include with the revised SMP filing documentation of consultation with the above agencies; copies of comments and
recommendations on the revised SMP, after it has been prepared and provided to the agencies; and specific descriptions of how comments and recommendations received are accommodated by the revised SMP. The Licensee shall allow a minimum of 30 days for the agencies participating in the workgroup to comment prior to filing the revised SMP with the Commission for approval. If the Licensee does not adopt a recommendation, the revised-SMP filing shall include the Licensee’s reasons.

(B) The Commission reserves the right to require changes to any revised and updated SMP developed in accordance with the above. The Licensee shall implement any revised and updated SMP as approved by the Commission, including any changes required by the Commission.

END OF PROPOSED LICENSE ARTICLE

A-7.0 Water Quality Article

ARTICLE – Water Quality Monitoring

(A) During the first full month of August occurring at least 60 days following issuance of this license and during every subsequent August for the term of this license, the Licensee shall continuously monitor dissolved oxygen concentrations in both the Keowee Hydro Station and Jocassee Pumped Storage Station tailwaters to demonstrate compliance with South Carolina’s water quality certification.

(B) The Licensee shall submit the results obtained from this annual monitoring to the Commission and the South Carolina Department of Health and Environmental Control each year by November 30.

END OF PROPOSED LICENSE ARTICLE
(intentionally blank)
APPENDIX B: PARTIES AND DESIGNATED REPRESENTATIVES

<table>
<thead>
<tr>
<th>Party</th>
<th>Designated Representative</th>
<th>Mailing Address</th>
<th>Overnight Express Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advocates for Quality Development, Inc.</td>
<td>Chuck Smith</td>
<td>PO Box 802 Seneca, SC 29679</td>
<td>211 N Harbour Drive Seneca, SC 29672-6822</td>
</tr>
<tr>
<td>Anderson Area Chamber of Commerce</td>
<td>Howard D. Spencer</td>
<td>1719 Circle Road Powdersville, SC 29642</td>
<td>1719 Circle Road Powdersville, SC 29642</td>
</tr>
<tr>
<td>City of Seneca</td>
<td>Bob Faires</td>
<td>PO Box 4773 Seneca, SC 29679</td>
<td>225 E North 1st Street Seneca, SC 29679</td>
</tr>
<tr>
<td>Friends of Lake Keowee Society, Inc.</td>
<td>Ben Turetzky Executive Director</td>
<td>4065 Keowee School Road Seneca, SC 29672</td>
<td>4065 Keowee School Road Seneca, SC 29672</td>
</tr>
<tr>
<td>Greenville Water</td>
<td>David Bereskin</td>
<td>PO Box 687 Greenville, SC 29602</td>
<td>406 W. Broad Street Greenville, SC 29601</td>
</tr>
<tr>
<td>Oconee County, SC</td>
<td>Art Holbrooks</td>
<td>415 S. Pine Street Walhalla, SC 29691</td>
<td>415 S. Pine Street Walhalla, SC 29691</td>
</tr>
<tr>
<td>Pickens County, SC</td>
<td>Chris Brink</td>
<td>222 McDaniel Avenue, B-10 Pickens, SC 29671</td>
<td>222 McDaniel Avenue, B-10 Pickens, SC 29671</td>
</tr>
</tbody>
</table>

1 These entities are Parties to this Agreement provided their duly authorized representatives sign this Agreement. All Parties shall notify the Licensee of changes to the contact information for the Party’s Designated Representative.
<table>
<thead>
<tr>
<th>Party¹</th>
<th>Designated Representative</th>
<th>Mailing Address</th>
<th>Overnight Express Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pickens County Water Authority</td>
<td>Steve Jewsbury</td>
<td>222 McDaniel Avenue, B-1 Pickens, SC 29671</td>
<td>222 McDaniel Avenue, B-1 Pickens, SC 29671</td>
</tr>
<tr>
<td>South Carolina Dept. of Archives and History</td>
<td>Elizabeth M. Johnson Director, Historical Services, D-SHPO</td>
<td>8301 Parklane Rd. Columbia, SC 29223</td>
<td>8301 Parklane Rd. Columbia, SC 29223</td>
</tr>
<tr>
<td>South Carolina Dept. of Natural Resources</td>
<td>Bill Marshall</td>
<td>P.O. Box 167 Columbia, SC 29202</td>
<td>1000 Assembly Street Columbia, SC 29202</td>
</tr>
<tr>
<td>South Carolina Dept. of Parks, Recreation and Tourism</td>
<td>Phil Gaines</td>
<td>1205 Pendleton Street Columbia, SC 29201</td>
<td>1205 Pendleton Street Columbia, SC 29201</td>
</tr>
<tr>
<td>South Carolina Wildlife Federation</td>
<td>Ben Gregg Executive Director</td>
<td>2711 Middleburg Dr, Ste 101 Columbia, SC 29204</td>
<td>2711 Middleburg Dr, Ste 101 Columbia, SC 29204</td>
</tr>
<tr>
<td>The Cliffs at Keowee Vineyards Community Association, Inc.</td>
<td>Jim Burgner</td>
<td>309 Wake Robin Drive Sunset, SC 29685-2247</td>
<td>309 Wake Robin Drive Sunset, SC 29685-2247</td>
</tr>
<tr>
<td>The Reserve at Lake Keowee</td>
<td>Tony Niemeyer</td>
<td>100A Village Green Loop Sunset, SC 29685</td>
<td>100A Village Green Loop Sunset, SC 29685</td>
</tr>
<tr>
<td>Upstate Forever</td>
<td>Van Whitehead</td>
<td>507 Pettigru Street Greenville, SC 29601</td>
<td>507 Pettigru Street Greenville, SC 29601</td>
</tr>
<tr>
<td>Warpath Development, Inc.</td>
<td>Tim Roberson</td>
<td>335 Blue Water Way West Union, SC 29696</td>
<td>335 Blue Water Way West Union, SC 29696</td>
</tr>
</tbody>
</table>

¹ I assume that Party refers to the organizations and Designated Representative refers to the contact persons.
### APPENDIX C: ABBREVIATIONS, ACRONYMS, AND DEFINITIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1968 Agreement</td>
<td>An agreement between the Licensee, the US Army Corps of Engineers, and Southeastern Power Administration that attempts to balance usable water storage between the Project and the USACE’s Hartwell and J. Strom Thurmond hydroelectric projects</td>
</tr>
<tr>
<td>401 WQC</td>
<td>401 Water Quality Certification</td>
</tr>
<tr>
<td>AAII</td>
<td>Access Area Improvement Initiative</td>
</tr>
<tr>
<td>ac</td>
<td>acre(s)</td>
</tr>
<tr>
<td>ac-ft</td>
<td>acre-feet</td>
</tr>
<tr>
<td>ADA</td>
<td>Americans with Disabilities Act</td>
</tr>
<tr>
<td>AIP</td>
<td>Agreement-in-Principle</td>
</tr>
<tr>
<td>AMSL</td>
<td>above mean sea level</td>
</tr>
<tr>
<td>AQD</td>
<td>Advocates for Quality Development, Inc.</td>
</tr>
<tr>
<td>°C</td>
<td>degrees Celsius</td>
</tr>
<tr>
<td>cfs</td>
<td>cubic feet per second</td>
</tr>
<tr>
<td>Commercial Recreation Area</td>
<td>Recreation areas provided and maintained by the private sector not including the Licensee, which are available to the general public</td>
</tr>
<tr>
<td>Critical Reservoir Elevation</td>
<td>Unless otherwise defined herein, the level of water in a reservoir (measured in ft AMSL or ft relative to the full pond contour with 100.0 ft corresponding to full pond) below which any Large Water Intake used for public water supply, industrial water supply or regional power plant water supply located on the reservoir will not operate at its Licensee-approved capacity</td>
</tr>
<tr>
<td>CWG</td>
<td>Clean Water Group</td>
</tr>
<tr>
<td>DCP</td>
<td>Drought Contingency Plan: the plan used by the USACE to manage water quantity in the USACE Reservoirs in the Savannah River Basin during drought</td>
</tr>
<tr>
<td>DMAG, KT-DMAG</td>
<td>Keowee-Toxaway Drought Management Advisory Group</td>
</tr>
<tr>
<td>DO</td>
<td>dissolved oxygen</td>
</tr>
<tr>
<td>EAP</td>
<td>Emergency Action Plan</td>
</tr>
<tr>
<td>EBCI</td>
<td>Eastern Band of Cherokee Indians</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Existing License</td>
<td>License document issued to the Licensee for the Keowee-Toxaway Hydroelectric Project (FERC Project No. 2503) with an effective date of September 1, 1966, and including all license amendments since that time, with requirements relative to the Licensee’s operation of the Project through the license expiration date of August 31, 2016, and as extended by an annual license(s)</td>
</tr>
<tr>
<td>°F</td>
<td>degrees Fahrenheit</td>
</tr>
<tr>
<td>FERC or Commission</td>
<td>Federal Energy Regulatory Commission (Note: The FERC refers to itself in license articles, other documents, and conversation as the “Commission.”)</td>
</tr>
<tr>
<td>FOLKS</td>
<td>Friends of Lake Keowee Society, Inc.</td>
</tr>
<tr>
<td>Form 80</td>
<td>Licensed Hydropower Development Recreation Report: a form submitted by licensees to the FERC providing data on recreation amenities at FERC-licensed hydropower projects; Form 80 submittals required every six years beginning in 2015</td>
</tr>
<tr>
<td>ft</td>
<td>foot / feet</td>
</tr>
<tr>
<td>Full Pond Elevation</td>
<td>The level of a reservoir corresponding to the point at which water would first begin to spill from the reservoir’s dam(s) or exceed the safety margin for a reservoir’s dam(s) if the Licensee took no action; the level corresponds to the lowest point along the top of the floodgates for both Lake Jocassee and Lake Keowee</td>
</tr>
<tr>
<td>GA</td>
<td>Georgia</td>
</tr>
<tr>
<td>GW or Greenville Water</td>
<td>Legally known as the Commissioners of Public Works of the City of Greenville</td>
</tr>
<tr>
<td>HEP</td>
<td>Habitat Enhancement Program</td>
</tr>
<tr>
<td>Historic Properties</td>
<td>Sites, buildings, and structures included in or eligible for inclusion in the National Register of Historic Places</td>
</tr>
<tr>
<td>HPMP</td>
<td>Historic Properties Management Plan</td>
</tr>
<tr>
<td>Inconsistent Act</td>
<td>Any action by a Jurisdictional Body that increases the burden upon or cost or risk to a Party substantially beyond the burden, cost, or risk assumed by the Party in this Agreement, or deprives a Party of a substantial benefit promised by another Party in this Agreement, such as by relieving another Party of a substantial bargained-for obligation</td>
</tr>
<tr>
<td>Jurisdictional Body</td>
<td>A governmental body that has the authority to place requirements on the Licensee in accordance with statutory mandates (e.g., FERC, USFWS, NMFS, SCDHEC)</td>
</tr>
<tr>
<td>KT</td>
<td>Keowee-Toxaway</td>
</tr>
<tr>
<td>KT Basin</td>
<td>Keowee-Toxaway River Basin</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>-------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Large Water Intake</td>
<td>Any water intake (e.g., public water supply, industrial, agricultural, power plant, irrigation, etc.) having a maximum instantaneous capacity greater than or equal to one million gallons per day (MGD)</td>
</tr>
<tr>
<td>Large Water Intake owner</td>
<td>The owner of a Large Water Intake (e.g., Greenville Water, City of Seneca, Licensee, etc.)</td>
</tr>
<tr>
<td>Licensee</td>
<td>Duke Energy Carolinas, LLC</td>
</tr>
<tr>
<td>Licensee’s Reservoirs</td>
<td>Bad Creek Reservoir, Lake Jocassee, and Lake Keowee</td>
</tr>
<tr>
<td>LIP</td>
<td>Low Inflow Protocol; the plan used by the Licensee and others to manage water quantity in the Licensee’s Reservoirs in the Savannah River Basin during drought</td>
</tr>
<tr>
<td>MEP</td>
<td>Maintenance and Emergency Protocol</td>
</tr>
<tr>
<td>MGD</td>
<td>million gallons per day</td>
</tr>
<tr>
<td>mg/L</td>
<td>milligrams per liter</td>
</tr>
<tr>
<td>MLCA</td>
<td>Mountain Lakes Community Association</td>
</tr>
<tr>
<td>MOA</td>
<td>memorandum of agreement</td>
</tr>
<tr>
<td>NC</td>
<td>North Carolina</td>
</tr>
<tr>
<td>NCSHPO</td>
<td>NC State Historic Preservation Office</td>
</tr>
<tr>
<td>New License</td>
<td>The license anticipated to be issued by the FERC to replace the Existing License</td>
</tr>
<tr>
<td>NMFS</td>
<td>National Marine Fisheries Service</td>
</tr>
<tr>
<td>NOA</td>
<td>New Operating Agreement; an agreement anticipated to replace the 1968 Agreement between the Licensee, USACE, and SEPA regarding required flow releases from the Keowee Development into the USACE’s Hartwell Project</td>
</tr>
<tr>
<td>Normal Maximum Elevation</td>
<td>The level of a reservoir (measured in ft AMSL or feet relative to the full pond contour with 100.0 ft corresponding to full pond) that defines the top of the reservoir’s Normal Operating Range for a given day of the year</td>
</tr>
<tr>
<td>Normal Minimum Elevation</td>
<td>The level of a reservoir (measured in ft AMSL or feet relative to the full pond contour with 100.0 ft corresponding to full pond) that defines the bottom of the reservoir’s Normal Operating Range for a given day of the year</td>
</tr>
<tr>
<td>Normal Operating Range</td>
<td>The band of reservoir levels, between the Normal Maximum and Normal Minimum Elevations, within which the Licensee normally attempts to maintain a given reservoir on a given day</td>
</tr>
<tr>
<td>NRHP</td>
<td>National Register of Historic Places</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>ONS</td>
<td>Oconee Nuclear Station</td>
</tr>
<tr>
<td>Park</td>
<td>Recreation areas provided and maintained by a county or state government which are available to the general public</td>
</tr>
<tr>
<td>PRC</td>
<td>Proposal Review Committee</td>
</tr>
<tr>
<td>Priority Species</td>
<td>Species given a priority status by the SCDNR’s Comprehensive Wildlife Conservation Plan</td>
</tr>
<tr>
<td>Project</td>
<td>Keowee-Toxaway Hydroelectric Project</td>
</tr>
<tr>
<td>Project Access Area</td>
<td>Recreation land owned by the Licensee within the Project Boundaries which is available to the general public</td>
</tr>
<tr>
<td>Project Boundary (ies)</td>
<td>The line(s) demarking lands designated by the FERC as necessary for operation of the Project and therefore subject to FERC jurisdiction</td>
</tr>
<tr>
<td>Project Reservoirs</td>
<td>Lake Keowee and Lake Jocassee</td>
</tr>
<tr>
<td>RA or Agreement</td>
<td>Relicensing Agreement</td>
</tr>
<tr>
<td>RMP</td>
<td>Recreation Management Plan</td>
</tr>
<tr>
<td>RTE</td>
<td>Rare, Threatened or Endangered</td>
</tr>
<tr>
<td>RUN</td>
<td>Recreation Use and Needs</td>
</tr>
<tr>
<td>SC</td>
<td>South Carolina</td>
</tr>
<tr>
<td>SCDHEC</td>
<td>SC Department of Health and Environmental Control</td>
</tr>
<tr>
<td>SCDNR</td>
<td>SC Department of Natural Resources</td>
</tr>
<tr>
<td>SCDPRT</td>
<td>SC Department of Parks, Recreation and Tourism</td>
</tr>
<tr>
<td>SCSHPO</td>
<td>SC State Historic Preservation Office</td>
</tr>
<tr>
<td>SCWF</td>
<td>South Carolina Wildlife Federation</td>
</tr>
<tr>
<td>Seneca or Seneca Light &amp; Water</td>
<td>City of Seneca</td>
</tr>
<tr>
<td>SEPA</td>
<td>Southeastern Power Administration</td>
</tr>
<tr>
<td>SHPO</td>
<td>State Historic Preservation Office</td>
</tr>
<tr>
<td>SMG</td>
<td>Shoreline Management Guidelines</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>SMP</td>
<td>Shoreline Management Plan: the Licensee’s process for evaluating requests for lake use permits which includes the following components: digital orthographic aerial photography; GPS-based geo-videography; consultation materials; process for challenges to shoreline classification; Structure Renovation / Removal Process; riparian zone management information; Shoreline Stabilization Technique Selection Process (“SSTSP”); consultation process with the EBCI; True Public Marina requirements; SMG; and Shoreline Classification Maps and Lake Use Restrictions</td>
</tr>
<tr>
<td>Special Status Species</td>
<td>State- and federally listed RTE species and others listed as Species of Concern and Special Concern Species</td>
</tr>
<tr>
<td>SWPP</td>
<td>Source Water Protection Program</td>
</tr>
<tr>
<td>TBD</td>
<td>to be determined</td>
</tr>
<tr>
<td>THPO</td>
<td>Tribal Historic Preservation Office</td>
</tr>
<tr>
<td>True Public Marina</td>
<td>A commercial recreation area that provides for the public’s use of Project lands and waters with facilities where boats can be launched, retrieved, or moored and where activities customarily associated with marinas are provided to the general public with no predetermination of user groups for the use of any of the land or water-based facilities, no membership requirements, and transient services (e.g., use of gas dock, restrooms, or pump-out facilities) do not require wet slip or dry storage rental</td>
</tr>
<tr>
<td>Upper Savannah River Basin</td>
<td>The portion of the Savannah River Basin draining into J. Strom Thurmond Lake</td>
</tr>
<tr>
<td>U.S. or US</td>
<td>United States</td>
</tr>
<tr>
<td>USACE</td>
<td>U.S. Army Corps of Engineers</td>
</tr>
<tr>
<td>USACE Reservoirs</td>
<td>Hartwell Lake, Richard B. Russell Lake, and J. Strom Thurmond Lake</td>
</tr>
<tr>
<td>USEPA</td>
<td>U.S. Environmental Protection Agency</td>
</tr>
<tr>
<td>USFWS</td>
<td>U.S. Fish and Wildlife Service</td>
</tr>
<tr>
<td>USGS</td>
<td>U.S. Geological Survey</td>
</tr>
</tbody>
</table>
(intentionally blank)
APPENDIX D

LOW INFLOW PROTOCOL (LIP) FOR THE KEOWEE-TOXAWAY HYDROELECTRIC PROJECT

Purpose

To establish a joint management plan that Duke Energy Carolinas, LLC (Licensee); Seneca Light & Water (Seneca), Greenville Water (GW), any public water suppliers that add Large Water Intakes withdrawing water from Project Reservoirs (Jocassee and Keowee); and any public water suppliers with Large Water Intakes on the U.S. Army Corps of Engineers’ (USACE) Reservoirs (Hartwell, Russell and Thurmond) that choose to participate, will follow in response to drought conditions.

Key Facts and Assumptions

1. Importance of Human Health and Safety and the Integrity of the Public Water Supply and Electric Systems – Nothing in this LIP will limit the Licensee’s ability to take any and all lawful actions necessary at the Keowee-Toxaway Hydroelectric Project (“Project”) to protect human health and safety, to protect its equipment from damage, to ensure the stability of the regional electric grid, to protect the equipment of the Large Water Intake owners from damage, and to ensure the stability of public water supply systems; provided that nothing in the Relicensing Agreement (RA) or LIP obligates the Licensee to take any actions to protect the equipment of Large Water Intake owners from damage or to ensure the stability of public water supply systems. It is recognized that the Licensee may provide this protection without prior consultation or notification.

2. This LIP is intended to support management of the Licensee’s Reservoirs (Bad Creek, Jocassee and Keowee) in the Upper Savannah River Basin for the Licensee's operations, while meeting the water resource needs of the public.

3. As of the date of this LIP, only five entities have Large Water Intakes withdrawing water from the Project. GW and Seneca are public water suppliers. The Licensee’s Large Water Intake at Oconee Nuclear Station (ONS) is used for thermal power plant cooling. The Reserve at Lake Keowee and The Cliffs Club at Keowee Vineyards, LLC each use Large Water Intakes for irrigation. The Reserve at Lake Keowee and The Cliffs Club at Keowee Vineyards, LLC have easements with clauses permitting the Licensee to require water conservation measures during droughts.

4. Any public water supplier owning a Large Water Intake that intends to locate a new intake, expand an existing intake, or rebuild an existing intake on Lake Keowee will be required to abide by the applicable portions of this LIP, except as provided for in existing agreements (e.g., easements, leases, lake use permits or other written agreements) between the Large Water Intake owner and the Licensee.

5. Nothing in this LIP amends or replaces any other contract or agreement to which the Licensee and/or any other Large Water Intake owner is a party.

6. Revising the LIP – During the term of the New License, the Keowee-Toxaway Drought Management Advisory Group (KT-DMAG) will periodically review and recommend updates to the LIP to ensure continuous improvement of the LIP and its implementation. These evaluations and modifications will be considered at least
once every ten (10) years during the New License term. Any modifications must be approved by the Licensee and all of the applicable public water suppliers with Large Water Intakes on Project Reservoirs. If such unanimous approval cannot be reached, then the dispute resolution procedures set forth in the RA will apply. Approved modifications will be incorporated through revision of the LIP, and the Licensee will file the revised LIP with the Federal Energy Regulatory Commission (FERC). If any modifications of the LIP require amendment of the New License, the Licensee will: (i) provide notice to all Parties to the RA, pursuant to Section 23.0 of the RA, advising them of the New License amendment and the Licensee’s intent to file it with the FERC; (ii) submit a modification request to the South Carolina Department of Health and Environmental Control (SCDHEC) for formal review and approval if required; and (iii) file a license amendment request for FERC approval if required. The filing of a revised LIP by the Licensee will not constitute or require modification of the RA, and any Party to the RA may be involved in the FERC’s or SCDHEC’s public processes for assessing the revised LIP, but may not oppose any part of a revised LIP that is consistent with the LIP included in the RA.

7. Transitioning to a Lower Critical Reservoir Elevation on Lake Keowee – The Licensee will operate in accordance with the provisions of the LIP, except Lake Keowee’s Critical Reservoir Elevation will remain at or above 94.6 ft local datum / 794.6 ft above Mean Sea Level (AMSL) until December 1, 2019, to allow time for ONS to be modified to support its operation at lower Lake Keowee levels. The Licensee may also, in its sole discretion, decide to maintain Lake Keowee’s Critical Reservoir Elevation at or above 94.6 ft local datum / 794.6 ft AMSL until both of the following are complete:

   a. A New License that is consistent with the RA has been issued, the end of all appeals, and all rehearing and administrative challenge periods have closed; and
   b. The Licensee, the USACE, and the Southeastern Power Administration (SEPA) have signed a New Operating Agreement (NOA) that is not inconsistent with the RA.

8. The following table provides storage volumes at various lake elevations in the Licensee’s Reservoirs. Data for the Bad Creek Reservoir are from original licensing data. Data for Lakes Jocassee and Keowee are from a 2010 bathymetric study performed by the Licensee. These data are for planning purposes and not of physical survey quality.
### Reservoir Elevation and Storage Increment

<table>
<thead>
<tr>
<th>Reservoir</th>
<th>Elevation From / Elevation To</th>
<th>Storage Increment (ac-ft)</th>
<th>Storage Increment (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bad Creek</td>
<td>100.0 / 2310 -60.0 / 2150</td>
<td>30,229</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Total Bad Creek</td>
<td>30,229</td>
<td></td>
</tr>
<tr>
<td>Jocassee</td>
<td>100.0 / 1110 86.0 / 1096</td>
<td>108,738</td>
<td>54</td>
</tr>
<tr>
<td></td>
<td>86.0 / 1096 82.0 / 1092</td>
<td>30,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>82.0 / 1092 77.0 / 1087</td>
<td>36,687</td>
<td></td>
</tr>
<tr>
<td></td>
<td>77.0 / 1087 73.0 / 1083</td>
<td>28,730</td>
<td></td>
</tr>
<tr>
<td></td>
<td>73.0 / 1083 70.0 / 1080</td>
<td>21,233</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Jocassee</td>
<td>225,387</td>
<td></td>
</tr>
<tr>
<td>Keowee</td>
<td>100.0 / 800.0 96.0 / 796.0</td>
<td>67,636</td>
<td>39</td>
</tr>
<tr>
<td></td>
<td>96.0 / 796.0 95.0 / 795.0</td>
<td>16,249</td>
<td></td>
</tr>
<tr>
<td></td>
<td>95.0 / 795.0 94.6 / 794.6</td>
<td>6,434</td>
<td></td>
</tr>
<tr>
<td></td>
<td>94.6 / 794.6 93.0 / 793.0</td>
<td>25,368</td>
<td></td>
</tr>
<tr>
<td></td>
<td>93.0 / 793.0 92.0 / 792.0</td>
<td>15,565</td>
<td></td>
</tr>
<tr>
<td></td>
<td>92.0 / 792.0 91.5 / 791.5</td>
<td>7,700</td>
<td></td>
</tr>
<tr>
<td></td>
<td>91.5 / 791.5 90.0 / 790.0</td>
<td>22,775</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total Keowee</td>
<td>161,727</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total for Licensee’s Reservoirs</td>
<td>417,343</td>
<td>100</td>
</tr>
</tbody>
</table>

## Definitions

1. **Critical Reservoir Elevation** – Unless otherwise defined herein, the Critical Reservoir Elevation is the level of water in a reservoir (measured by reference to local datum or in ft AMSL) below which any Large Water Intake used for public water supply, industrial water supply, or any regional power plant water supply located on the reservoir will not operate at its Licensee-approved capacity. The Critical Reservoir Elevations are:

<table>
<thead>
<tr>
<th>Reservoir</th>
<th>Critical Reservoir Elevation (ft local datum / ft AMSL)</th>
<th>Type of Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Keowee</td>
<td>90.0¹ / 790.0¹</td>
<td>Power Production</td>
</tr>
<tr>
<td>Lake Jocassee</td>
<td>70.0 / 1080.0</td>
<td>Power Production</td>
</tr>
<tr>
<td>Bad Creek</td>
<td>-60.0 / 2150.0</td>
<td>Power Production</td>
</tr>
</tbody>
</table>

Note 1 – This new Critical Reservoir Elevation will become effective December 1, 2019, to allow time for ONS to be modified to support its operation at lower Lake Keowee levels. See Item 7 under Key Facts and Assumptions for guidance prior to converting to this new Critical Reservoir Elevation.

2. **Total Usable Storage** – For the Licensee’s Reservoirs (Keowee, Jocassee, and Bad Creek), Total Usable Storage is the sum of the volume of water contained between
each reservoir’s Critical Reservoir Elevation and its Full Pond Elevation, expressed in acre-feet (ac-ft). For the USACE Reservoirs in the Upper Savannah River Basin (Hartwell, Richard B. Russell, and J. Strom Thurmond), Total Usable Storage is the sum of the volume of water contained between each reservoir’s bottom-of-power-pool elevation (top of inactive pool) and the guide curve elevation denoting the top of conservation storage for any particular time of year, expressed in ac-ft.

3. Remaining Usable Storage – The sum of the volume of water contained between each reservoir’s Critical Reservoir Elevation and the actual reservoir elevation at any given point in time, expressed in ac-ft, for the Licensee’s Reservoirs. The Remaining Usable Storage calculation for the Licensee’s Reservoirs is based on a maximum drawdown elevation of 90 ft local datum / 790 ft AMSL for Lake Keowee, a maximum drawdown elevation of 70 ft local datum / 1080 ft AMSL for Lake Jocassee, and a maximum drawdown elevation of -60 ft local datum / 2150 ft AMSL for the Bad Creek Reservoir. For the USACE Reservoirs in the Upper Savannah River Basin (Hartwell, Richard B. Russell, and J. Strom Thurmond), Remaining Usable Storage is the sum of the volume of water contained between each reservoir’s bottom-of-power-pool elevation (top of inactive pool) and the actual elevation, expressed in ac-ft.

4. Storage Index – The ratio, expressed in percent, of Remaining Usable Storage to Total Usable Storage at any given point in time.

5. Large Water Intake – Any water intake (e.g., public water supply, industrial, agricultural, power plant, irrigation, etc.) having a maximum instantaneous capacity greater than or equal to one million gallons per day (MGD).

6. Keowee-Toxaway Drought Management Advisory Group (KT-DMAG) – The KT-DMAG is a voluntary advisory group to be formed and tasked with working with the Licensee when the LIP is initiated. This KT-DMAG will also meet as necessary to foster a basin-wide response to a Low Inflow Condition (see Specific Actions at Each LIP Stage). The KT-DMAG will consist of a representative from each of the following organizations that decides to form or join the KT-DMAG. By agreeing to form or join the KT-DMAG, each Member agrees to comply with all applicable requirements of this LIP. Each KT-DMAG Member may have a primary representative and an alternate representative, who may act in the absence of the primary representative.

   a. SC Department of Natural Resources (SCDNR);
   b. SCDHEC;
   c. US Geological Survey (USGS);
   d. USACE;
   e. Each owner of a Large Water Intake used for municipal, industrial, or power plant water supply located on the Project Reservoirs;
   f. Each owner of a Large Water Intake used for municipal, industrial, or power plant water supply located on any tributary stream within the Keowee-Toxaway River Basin that ultimately drains to Lake Keowee and that agrees to coordinate its drought planning and management under the KT-DMAG;
   g. Each owner of a Large Water Intake used for municipal, industrial, or power plant water supply located on the USACE Reservoirs that agrees to coordinate its drought planning and management under the KT-DMAG; and
   h. Licensee (KT-DMAG Coordinator).
Members of the KT-DMAG will adopt a Charter to guide the operation of the KT-DMAG, as set forth in part below, and said Charter will require KT-DMAG Members to comply with the applicable requirements of this LIP. The KT-DMAG will meet at least annually (typically during the month of June), beginning in 2014 and continuing throughout the term of the New License, regardless of the Low Inflow Condition status, to review prior year activities, discuss data input from public water suppliers that are Large Water Intake owners, and discuss other issues relevant to the LIP. The Licensee will lead the formation of the KT-DMAG, will call meetings and set agendas, and will maintain an active roster of the KT-DMAG and update the roster as needed. The Licensee will prepare meeting summaries of all KT-DMAG meetings, make these meeting summaries available to the public by posting on its website, and notify Parties to the RA without specific responsibilities under the LIP of the availability of information on the current LIP status and possible actions.

Basic Responsibilities

Licensee’s Responsibilities

The Licensee accepts the following basic responsibilities in furtherance of this LIP.

1. Monitor the following drought triggers and relevant data at least monthly or as specified for each LIP Stage.

   - Remaining Usable Storage in the Licensee’s Reservoirs
   - Composite average of selected USGS streamflow gages (Twelvemile Creek near Liberty, SC (USGS Gage # 02186000); Chattooga River near Clayton, GA (USGS Gage # 02177000); French Broad River near Rosman, NC (USGS Gage # 03439000))
   - U.S. Drought Monitor for the Upper Savannah River Basin (i.e., from Thurmond Dam upstream)
   - Composite average of the Licensee’s rainfall gauge readings at the Jocassee Pumped Storage Station, Keowee Hydro Station, and the Bad Creek Project
   - Oconee County USGS groundwater gage (USGS Gage # 345051083041800 OC-233) (Note: Data from other groundwater gages can be added in the future if beneficial.)
   - Remaining Usable Storage in the USACE Reservoirs downstream
   - USACE Savannah River Basin drought status

2. Coordinate KT-DMAG meetings including those noted for the particular drought stage. Provide to the KT-DMAG trigger updates, composite rainfall gauge readings, and operational and meteorological projections. Meetings can be in person, telephonic or by use of other appropriate communications. In consultation with KT-DMAG members, select and publicly communicate the LIP Stage based on the triggers established in this LIP.

3. Provide to the KT-DMAG the estimated water consumption rate by ONS (average for the current month and projections for the next month) and the estimated natural evaporation rate by reservoir from the Licensee’s Reservoirs for the current month and projections for the next month.
4. Quantify total weekly flow releases (hydro generation, flood gate releases, hydro unit leakage, and dam seepage) made from the Keowee Development for the previous four weeks and provide to the KT-DMAG.

5. Coordinate with the USACE to make flow releases from Lake Keowee in accordance with the NOA between the Licensee, USACE, and SEPA regarding flow releases from the Keowee Development into the USACE’s Hartwell Project and this LIP.

6. Depending on the LIP Stage, request voluntary or require mandatory water use restrictions for withdrawing water from the Licensee’s Reservoirs to irrigate lakeside properties.

7. When operating in the LIP near Stage Minimum Elevations, except for flow releases required for ONS operations or situations covered by the Maintenance and Emergency Protocol (MEP), the Licensee will not make an intentional flow release from Keowee Dam if that flow release would reduce the level of Lake Jocassee or Lake Keowee below its Stage Minimum Elevation as specified for the applicable LIP stage.

8. When operating in the LIP, the Licensee will limit weekly flow releases from the Keowee Dam to no more than the maximum weekly flow release for the applicable LIP Stage except for flow releases required for ONS operations or situations covered in the MEP. The weekly flow release amount includes the sum of all water released downstream from the Keowee Dam (i.e., hydro unit generation plus hydro unit leakage plus dam seepage plus any flood gate releases).

9. Stage Minimum Elevations are defined for each Stage of the LIP. When a subsequent Stage of the LIP is reached, the Licensee agrees both Project Reservoirs must be within 0.25 ft of the Stage Minimum Elevation of the previous Stage of the LIP before each reservoir can be lowered to the next Stage Minimum Elevation.

Responsibilities of Large Water Intake Owners that are Public Water Suppliers

Large Water Intake owners that are public water suppliers withdrawing water from the Licensee’s Reservoirs agree to the following basic responsibilities in furtherance of this LIP.

1. Provide to the Licensee current month and projections for next month’s water use from the Licensee’s Reservoirs and from any alternative water supply sources.

2. Provide to the Licensee an overview of system conditions related to water use from the Licensee’s Reservoirs (i.e., leaks, status of alternative water sources, new or potential large water users, etc.).

3. Request or require water use restrictions from water customers and/or make greater use of alternative water sources for the purpose of reducing water withdrawals from the Licensee’s Reservoirs below what those withdrawals would have been otherwise, consistent with best practices and operating principles for those Large Water Intake owners’ systems in accordance with the specific actions listed in this document at each LIP stage.
**LIP Stage Triggers**

For the purposes of this LIP, the following triggers will define the LIP Stage.

**Stage 0 (Low Inflow Watch) Drought Trigger Levels**

1. Storage Index in USACE Reservoirs and Storage Index in the Licensee’s Reservoirs are both less than 90% (using the Critical Reservoir Elevations defined above); and

2. One of the following triggers:
   a. Twelve-week average of the area-weighted U.S. Drought Monitor for Upper Savannah River Basin (Thurmond Dam and upstream) is greater than or equal to 0; or
   b. Streamflow based on composite average of selected USGS streamflow gages (Twelvemile Creek near Liberty, SC; Chattooga River near Clayton, GA; and French Broad River near Rosman, NC) is less than 85% of long-term average for the previous four months.

**Stage 1 Drought Trigger Levels**

1. USACE implements Level 1 of its existing Drought Contingency Plan (DCP); and

2. One of the following triggers:
   a. Twelve-week average of the area-weighted U.S. Drought Monitor for Upper Savannah River Basin (Thurmond Dam and upstream) is greater than or equal to 1; or
   b. Streamflow based on composite average of selected USGS streamflow gages (Twelvemile Creek near Liberty, SC; Chattooga River near Clayton, GA; and French Broad River near Rosman, NC) is less than 75% of long-term average for the previous four months.

**Stage 2 Drought Trigger Levels**

1. USACE implements Level 2 of its existing DCP; and

2. One of the following triggers:
   a. Twelve-week average of the area-weighted U.S. Drought Monitor for Upper Savannah River Basin (Thurmond Dam and upstream) is greater than or equal to 2; or
   b. Streamflow based on composite average of selected USGS streamflow gages (Twelvemile Creek near Liberty, SC; Chattooga River near Clayton, GA; and French Broad River near Rosman, NC) is less than 65% of long-term average for the previous four months.

**Stage 3 Drought Trigger Levels**

1. USACE implements Level 3 of its existing DCP; and

2. One of the following triggers:
   a. Twelve-week average of the area-weighted U.S. Drought Monitor for Upper Savannah River Basin (Thurmond Dam and upstream) is greater than or equal to 3; or
b. Streamflow based on composite average of selected USGS streamflow gages (Twelvemile Creek near Liberty, SC; Chattooga River near Clayton, GA; and French Broad River near Rosman, NC) is less than 55% of long-term average for the previous four months.

Stage 4 Drought Trigger Levels

1. Storage Index in the Licensee’s Reservoirs is less than 25%; and

2. One of the following triggers:
   a. Twelve-week average of the area-weighted U.S. Drought Monitor for Upper Savannah River Basin (Thurmond Dam and upstream) is equal to 4; or
   b. Streamflow based on composite average of selected USGS streamflow gages (Twelvemile Creek near Liberty, SC; Chattooga River near Clayton, GA; and French Broad River near Rosman, NC) is less than 40% of long-term average for the previous four months.

Specific Actions at Each LIP Stage

Stage 0

The Licensee will:

1. Notify the KT-DMAG members and the South Carolina Department of Parks, Recreation and Tourism (SCDPR) that LIP Stage 0 has been reached;

2. Initiate drought meetings (typically monthly) among the KT-DMAG members and any other interested water system managers;

3. Provide detailed updates to the KT-DMAG on drought triggers and other relevant data, as noted in the Basic Responsibilities section;

4. Provide data to the KT-DMAG on the amount of water released from Lake Keowee for the previous four weeks;

5. Provide flow releases from Keowee Dam in accordance with the following limitations:
   a. When the Storage Index for the Licensee’s Reservoirs is below 90% but greater than or equal to 85%, limit the total maximum weekly flow release (i.e., hydro unit flow releases, flood gate flow releases, hydro unit leakage, and dam seepage) to 25,000 ac-ft (1800 cfs on a weekly average basis) or a lesser amount if required to avoid driving the level of Lake Jocassee or Lake Keowee below its Normal Minimum Elevation except flow releases required for ONS operations or situations covered by the MEP;
   b. When the Storage Index for the Licensee’s Reservoirs is below 85% but greater than or equal to 80%, limit the total maximum weekly flow release (i.e., hydro unit flow releases, flood gate flow releases, hydro unit leakage, and dam seepage) to 20,000 ac-ft (1440 cfs on a weekly average basis) or a lesser amount if required to avoid driving the level of Lake Jocassee or Lake Keowee below its Normal Minimum Elevation except flow releases required for ONS operations or situations covered by the MEP; and

6. Provide the drought stage and other relevant information on the Licensee’s lake information website and toll-free telephone system.
Large Water Intake owners that are public water suppliers will provide detailed updates to the Licensee on relevant data as noted in the Basic Responsibilities section.

**Stage 1**

The Licensee will:

1. Notify the FERC, KT-DMAG members and the SCDPRT that LIP Stage 1 has been reached;
2. Coordinate drought meetings (typically monthly) among the KT-DMAG members and any other interested water system managers;
3. Continue to provide detailed updates on drought triggers and other relevant data to the KT-DMAG, as noted in the Basic Responsibilities section;
4. Provide data to the KT-DMAG on the amount of water released from Lake Keowee for the previous four weeks;
5. Request those lake neighbors withdrawing water from the Licensee’s Reservoirs for irrigating lakeside residential properties voluntarily limit their withdrawals to no more than two days per week, with the days to be specified by the Licensee;
6. Reduce the Minimum Elevation for Lake Keowee to 95.0 ft local datum / 795.0 ft AMSL (Stage 1 Minimum Elevation);
7. Reduce the Minimum Elevation for Lake Jocassee to 82.0 ft local datum / 1092.0 ft AMSL (Stage 1 Minimum Elevation);
8. Limit flow releases from Keowee Dam to a total maximum weekly flow release (i.e., hydro unit flow releases, flood gate flow releases, hydro unit leakage, and dam seepage) of 18,750 ac-ft (1350 cfs on a weekly average basis) or a lesser amount if required to avoid driving the level of Lake Jocassee or Lake Keowee below its Stage 1 Minimum Elevation except flow releases required for ONS operations or situations covered by the MEP; and
9. Provide the drought stage and other relevant information on the Licensee’s lake information website and toll-free telephone system.

Large Water Intake owners that are public water suppliers will:

1. Notify their water customers of the Low Inflow Condition through public outreach and communication;
2. Reduce water withdrawals from Lake Keowee, as a goal, by 3-5% (or more) from the withdrawal amounts otherwise expected; and
3. Provide detailed updates on relevant data to the Licensee as noted in the Basic Responsibilities section.

**Stage 2**

The Licensee will:

1. Notify the FERC, KT-DMAG members and the SCDPRT that LIP Stage 2 has been reached;
2. Coordinate drought meetings (typically bi-weekly) among the KT-DMAG members and any other interested water system managers;
3. Continue to provide detailed updates on drought triggers and other relevant data to the KT-DMAG, as noted in the Basic Responsibilities section;

4. Provide data to the KT-DMAG on the amount of water released from Lake Keowee for the previous two weeks;

5. Require those lake neighbors withdrawing water from the Licensee’s Reservoirs for irrigating lakeside residential properties to limit their withdrawals to no more than two days per week, with the days to be specified by the Licensee;

6. Reduce the Minimum Elevation for Lake Keowee to 93 ft local datum / 793.0 ft AMSL (Stage 2 Minimum Elevation), but no lower than the appropriate Critical Reservoir Elevation;

7. Reduce the Minimum Elevation for Lake Jocassee to 77.0 ft local datum / 1087.0 ft AMSL (Stage 2 Minimum Elevation);

8. Limit flow releases from Keowee Dam to a total maximum weekly flow release (i.e., hydro unit flow releases, flood gate flow releases, hydro unit leakage, and dam seepage) of 15,000 ac-ft (1080 cfs on a weekly average basis) or a lesser amount if required to avoid driving the level of Lake Jocassee or Lake Keowee below its Stage 2 Minimum Elevation except flow releases required for ONS operations or situations covered by the MEP; and

9. Provide the drought stage and other relevant information on the Licensee’s lake information website and toll-free telephone system.

Large Water Intake owners that are public water suppliers will:

1. Notify their water customers of the Low Inflow Condition through public outreach and communication with emphasis on the need to conserve water;

2. Reduce water withdrawals from Lake Keowee, as a goal, by 5-10% (or more) from the withdrawal amounts otherwise expected; and

3. Provide detailed updates on relevant data to the Licensee as noted in the Basic Responsibilities section.

Stage 3

The Licensee will:

1. Notify the FERC, KT-DMAG members and the SCDPRT that LIP Stage 3 has been reached;

2. Coordinate drought meetings (typically bi-weekly) among the KT-DMAG members and any other interested water system managers;

3. Continue to provide detailed updates on drought triggers and other relevant data to the KT-DMAG, as noted in the Basic Responsibilities section;

4. Provide data to the KT-DMAG on the amount of water released from Lake Keowee for the previous two weeks;

5. Require those lake neighbors withdrawing water from the Licensee’s Reservoirs for irrigating lakeside residential properties to limit their withdrawals to no more than one day per week, with the day to be specified by the Licensee;
6. Reduce the Minimum Elevation for Lake Keowee to 92.0 ft local datum / 792.0 ft AMSL (Stage 3 Minimum Elevation), but no lower than the appropriate Critical Reservoir Elevation;

7. Reduce the Minimum Elevation for Lake Jocassee to 73.0 ft local datum / 1083.0 ft AMSL (Stage 3 Minimum Elevation);

8. Limit flow releases from Keowee Dam to a total maximum weekly flow release (i.e., hydro unit flow releases, flood gate flow releases, hydro unit leakage, and dam seepage) of 10,000 ac-ft (720 cfs on a weekly average basis) or a lesser amount if required to avoid driving the level of Lake Jocassee or Lake Keowee below its Stage 3 Minimum Elevation except flow releases required for ONS operations or situations covered by the MEP; and

9. Provide the drought stage and other relevant information on the Licensee’s lake information website and toll-free telephone system.

Large Water Intake owners that are public water suppliers will:

1. Notify their water customers of the Low Inflow Condition through public outreach and communication with increased emphasis on the need to conserve water;

2. Reduce water withdrawals from Lake Keowee, as a goal, by 10-20% (or more) from the withdrawal amounts otherwise expected; and

3. Provide detailed updates on relevant data to the Licensee as noted in the Basic Responsibilities section.

Stage 4

The Licensee will:

1. Notify the FERC, KT-DMAG members and the SCDPRT that LIP Stage 4 has been reached;

2. Coordinate bi-weekly (or more frequently if needed) drought meetings among KT-DMAG members and any other interested water system managers;

3. Continue to provide detailed updates on drought triggers and other relevant data to the KT-DMAG, as noted in the Basic Responsibilities section;

4. Provide data to the KT-DMAG on the amount of water released from Lake Keowee for the previous two weeks;

5. Require those lake neighbors withdrawing water from the Licensee’s Reservoirs for irrigating lakeside residential properties to cease all such withdrawals;

6. Reduce the Minimum Elevation for Lake Keowee to 90.0 ft local datum / 790.0 ft AMSL (Stage 4 Minimum Elevation), but no lower than the appropriate Critical Reservoir Elevation;

7. Reduce the Minimum Elevation for Lake Jocassee to 70.0 ft local datum / 1080.0 ft AMSL (Stage 4 Minimum Elevation);

8. Limit flow releases from Keowee Dam to the following:

   a. When the Storage Index for the Licensee’s Reservoirs is below 25% but greater than 12%, except for flow releases required by the FERC, for ONS operations, or situations covered by the MEP, limit the total maximum weekly flow release (i.e.,
hydro unit flow releases, flood gate flow releases, hydro unit leakage, and dam seepage) to 7,500 ac-ft (540 cfs on a weekly average basis) or a lesser amount if required to avoid driving the level of Lake Jocassee below its Stage 4 Minimum Elevation and to maintain the level of Lake Keowee at or above 91.5 ft local datum / 791.5 ft AMSL or its Critical Reservoir Elevation, whichever is higher;

b. When the Storage Index for the Licensee’s Reservoirs is at or below 12%, cease making hydro unit and floodgate flow releases, except for flow releases required by the FERC, for ONS operations, or situations covered by the MEP.

9. Provide the drought stage and other relevant information on the Licensee’s lake information website and toll-free telephone system.

Large Water Intake owners that are public water suppliers will:

1. Notify their water customers of the Low Inflow Condition through public outreach and communication with increased emphasis on the need to conserve water;

2. Reduce water withdrawals from Lake Keowee by 20-30% (or more) from the withdrawal amounts otherwise expected; and

3. Provide detailed updates on relevant data to the Licensee as noted in the Basic Responsibilities section.

Recovery from LIP Stages

Recovery under this LIP as conditions improve will be accomplished by reversing the staged approach outlined above, except the only trigger to recover from a stage is for either the storage index for the Licensee’s Reservoirs or the USACE drought trigger to be exceeded for the current stage as described below. The following table provides the storage levels required for recovery from a higher numbered “Stage Y” to a lower numbered “Stage X”:

<table>
<thead>
<tr>
<th>Recovery from Stage Y to Stage X</th>
<th>Required Storage</th>
</tr>
</thead>
<tbody>
<tr>
<td>From Stage 4 to Stage 3</td>
<td>Storage Index for the Licensee’s Reservoirs is greater than or equal to 25%</td>
</tr>
<tr>
<td>From Stage 3 to Stage 2</td>
<td>Storage for the USACE Reservoirs recovers to amount for initial implementation(^1) of Level 2 of its DCP</td>
</tr>
<tr>
<td>From Stage 2 to Stage 1</td>
<td>Storage for the USACE Reservoirs recovers to amount for initial implementation(^1) of Level 1 of its DCP</td>
</tr>
<tr>
<td>From Stage 1 to Stage 0</td>
<td>Storage for the USACE Reservoirs returns to amount required for Normal operations(^1)</td>
</tr>
<tr>
<td>From Stage 0 to Normal</td>
<td>Storage Index for the Licensee’s Reservoirs is greater than or equal to 90%</td>
</tr>
</tbody>
</table>

Note 1 – These are USACE storage amounts that indicate when the USACE increases its drought level (Normal to 1, 1 to 2 or 2 to 3) which is not the same storage amount that indicates when USACE decreases its drought level (3 to 2, 2 to 1 or 1 to Normal). The USACE requires greater storage amounts when recovering from drought (decreasing drought levels).
APPENDIX E

MAINTENANCE AND EMERGENCY PROTOCOL (MEP) FOR THE KEOWEE-TOXAWAY HYDROELECTRIC PROJECT

Introduction

Under some emergency, equipment failure, power plant maintenance, and other situations, certain license conditions may be impractical or even impossible to meet and may need to be suspended or modified temporarily to avoid taking unnecessary risks. The objectives of this protocol are to define the most likely situations of this type, identify the potentially impacted license conditions, and outline the general approach the Licensee will take to mitigate the impacts to license conditions and to communicate with the resource agencies and affected parties.

Note: Due to the potential variability of these situations, this protocol is not intended to give an exact step-by-step solution for all situations. It does, however, provide basic expectations for the Licensee’s approach to dealing with such situations. Specific details will vary and will be determined on a case-by-case basis as the protocol is implemented.

The Licensee will review the requirements of this protocol each time it is used and may revise the MEP from time to time as noted below.

Key Facts and Definitions

1. Human Health and Safety and the Integrity of the Public Water Supply and Electric Systems – Nothing in this protocol will limit the Licensee’s ability to take any and all lawful actions necessary at the Keowee-Toxaway Hydroelectric Project (Project) to protect human health and safety, to protect its equipment from damage, to ensure the stability of the regional electric grid, to protect the equipment of the Large Water Intake owners from damage, and to ensure the stability of public water supply systems; provided that nothing in the Relicensing Agreement (“RA”) or MEP obligates the Licensee to take any actions to protect the equipment of Large Water Intake owners from damage or to ensure the stability of public water supply systems. It is recognized the Licensee may provide this protection without prior consultation or notification.

2. Normal Full Pond Elevation – Also referred to simply as “full pond,” this is the level of a reservoir corresponding to the point at which water would first begin to spill from the reservoir’s dam(s) if the Licensee took no action. This level corresponds to the lowest point along the top of the floodgates for Project Reservoirs (i.e., Lake Jocassee and Lake Keowee). To avoid confusion among the many reservoirs the Licensee operates, it has adopted the practice of referring to the Full Pond Elevation for all of its reservoirs as equal to 100.0 ft relative to local datum. The Full Pond Elevations for the Project Reservoirs are:

<table>
<thead>
<tr>
<th>Reservoir</th>
<th>Local Datum (ft)</th>
<th>Above Mean Sea Level (ft AMSL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Jocassee</td>
<td>100.0</td>
<td>1110.0</td>
</tr>
<tr>
<td>Lake Keowee</td>
<td>100.0</td>
<td>800.0</td>
</tr>
</tbody>
</table>
3. **Normal Minimum Elevation** – The level of a reservoir (measured in ft AMSL, or feet relative to the full pond contour with 100.0 ft corresponding to full pond) that defines the bottom of the reservoir’s Normal Operating Range for a given day of the year. If inflows and outflows to the reservoir are kept within some reasonable range of the average or expected amounts, hydroelectric project equipment is operating properly, and neither the Low Inflow Protocol (LIP) nor MEP has been implemented, reservoir level excursions below the Normal Minimum Elevation should not occur.

4. **Normal Maximum Elevation** – The level of a reservoir (measured in ft AMSL, or feet relative to the full pond contour with 100.0 ft corresponding to full pond) that defines the top of the reservoir’s Normal Operating Range for a given day of the year. If inflows and outflows to the reservoir are kept within some reasonable range of the average or expected amounts, hydroelectric project equipment is operating properly, and neither the LIP nor MEP has been implemented, reservoir level excursions above the Normal Maximum Elevation should not occur.

5. **Normal Operating Range** – The band of reservoir levels within which the Licensee normally attempts to maintain a given reservoir on a given day. Each Project Reservoir has its own specific Normal Operating Range bounded by a Normal Maximum Elevation and a Normal Minimum Elevation. If inflows and outflows to the reservoir are kept within some reasonable range of the average or expected amounts, hydroelectric project equipment is operating properly and neither the LIP nor MEP has been implemented, reservoir level excursions outside of the Normal Operating Range should not occur. The New License for the Project includes the Normal Operating Ranges for the Project Reservoirs (i.e., Normal Minimum, Normal Maximum) as listed in the proposed Reservoir Elevations License Article and as follows.

<table>
<thead>
<tr>
<th>Reservoir</th>
<th>Normal Maximum Elevation (ft local datum / ft AMSL)</th>
<th>Normal Minimum Elevation (ft local datum / ft AMSL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Jocassee</td>
<td>100.0 / 1110.0</td>
<td>86.0 / 1096.0</td>
</tr>
<tr>
<td>Lake Keowee</td>
<td>100.0 / 800.0</td>
<td>96.0 / 796.0</td>
</tr>
</tbody>
</table>

6. **Returning to Normal** – Some of the situations noted in this MEP can impact the Licensee’s ability to operate the Project in the most efficient and safest manner for power production. The Licensee will therefore endeavor in good faith to repair existing Project equipment and facilities and return them to service within a reasonable period of time, commensurate with the severity of the equipment / facility repair requirements. If the Licensee decides that repair is not cost-effective or that hydro station or dam retirement is necessary, the Licensee will notify the Parties to the RA, pursuant to Section 23.0 of the RA and consult with them as well as with the Federal Energy Regulatory Commission (FERC) to determine any necessary modifications of the New License and / or the RA.

7. **Incidental Maintenance** – This is a maintenance activity at the Project works that is very brief in nature or that requires minimal if any deviation from normal license conditions and that does not require deviation from any license conditions related to prescribed flow releases from Project structures, or the Normal Operating Ranges for reservoir levels, or that is less than 72 hours in duration and will not require any excursions below any applicable Critical Reservoir Elevations. Except for the notification steps identified in the tables below for communication with resource agencies and affected parties for conditions
that impact prescribed flow releases, Incidental Maintenance is exempt from the requirements of this protocol.

8. Notification Guidance

a. Scheduled Maintenance that Affects License Conditions – Typically, scheduled maintenance is planned in advance. Once a likely maintenance schedule has been established, the Licensee will endeavor in good faith to provide as much advance notice as possible to the affected parties identified in this protocol.

b. Unscheduled Maintenance and Emergencies that Affect License Conditions – It is not possible for the Licensee to assure any level of advance notice. For these situations, the Licensee will endeavor in good faith to inform the affected parties identified in this protocol within some reasonable amount of time after the situation has been identified.

9. Relationship Between this MEP and the LIP – The LIP provides for reductions in Project water use and modification of the Normal Operating Ranges for reservoir levels when water demands on Project Reservoirs substantially exceed net inflow. Lowered reservoir levels caused by situations addressed under this MEP will not invoke implementation of the LIP. Also, if the LIP has already been implemented at the time this MEP is initiated, the Licensee will typically suspend its implementation of the LIP requirements until the MEP situation has been eliminated. The Licensee may however choose to continue with the LIP.

10. Peak Recreation Period – The period when recreation use on Project Reservoirs is generally at the highest levels (i.e., April 1 through September 30).

11. Critical Reservoir Elevation – Unless otherwise defined herein, the Critical Reservoir Elevation is the level of water in a reservoir (measured by reference to local datum or in ft AMSL) below which any Large Water Intake used for public water supply, industrial water supply, or any regional power plant water supply located on the reservoir will not operate at its Licensee-approved capacity. The Critical Reservoir Elevations are as follows.

<table>
<thead>
<tr>
<th>Reservoir</th>
<th>Critical Reservoir Elevation (ft local datum / ft AMSL)</th>
<th>Type of Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Jocassee</td>
<td>70.0 / 1080.0</td>
<td>Power Production</td>
</tr>
<tr>
<td>Lake Keowee</td>
<td>90.0 (^1) / 790.0 (^1)</td>
<td>Power Production</td>
</tr>
</tbody>
</table>

Note 1 - This new Critical Reservoir Elevation of 90.0 / 790.0 will become effective December 1, 2019 to allow time for ONS to be modified to support its operation at lower Lake Keowee levels. See Item 12 below for guidance prior to converting to this new Critical Reservoir Elevation.

12. Transitioning to a Lower Critical Reservoir Elevation on Lake Keowee – The Licensee will operate in accordance with the provisions of the MEP, except Lake Keowee's Critical Reservoir Elevation will remain at or above 94.6 ft local datum / 794.6 ft AMSL until December 1, 2019, to allow time for ONS to be modified to support its operation at lower Lake Keowee levels. The Licensee may also, in its sole discretion, decide to maintain Lake Keowee's Critical Reservoir Elevation at or above 94.6 ft local datum / 794.6 ft AMSL until both of the following are complete:

a. A New License that is consistent with the RA has been issued, the end of all appeals, and all rehearing and administrative challenge periods have closed; and
b. The Licensee, the United States Army Corps of Engineers, and the Southeastern Power Administration have signed a New Operating Agreement (NOA) that is not inconsistent with the RA.

13. Abbreviations for Organizational Contacts – Greenville Water (GW); North Carolina State Historic Preservation Office (NCSHPO); Seneca Light and Water (Seneca); South Carolina Department of Natural Resources (SCDNR); South Carolina Department of Health and Environmental Control (SCDHEC); South Carolina State Historic Preservation Office (SCSHPO); United States Fish and Wildlife Service (USFWS); the Eastern Band of Cherokee Indians (EBCI); US Army Corps of Engineers - Savannah District (USACE); South Carolina Department of Parks, Recreation and Tourism (SCDPRRT); Friends of Lake Keowee Society (FOLKS), Advocates for Quality Development (AQD), and Mountain Lakes Community Association (MLCA).

14. Voltage and Capacity Emergencies – The electric transmission system serving the Project area is part of the Licensee’s main transmission system. The Licensee’s system is connected to other large transmission systems located in the southeast. If the Licensee’s system reliability is at risk due to Voltage and Capacity Emergencies, the ability to provide secure and continuous electric service to the Licensee’s electric customers becomes compromised. The Licensee continuously monitors the electric transmission system. Therefore, for the purposes of this protocol, a Voltage or Capacity Emergency shall exist when declared by the Licensee.

15. Large Water Intake – Any water intake (e.g., public water supply, industrial, agricultural, power plant, irrigation, etc.) having a maximum instantaneous capacity greater than or equal to one million gallons per day (MGD).

16. Preparation for High Inflow Events – With modern forecasting, it is possible to forecast many high inflow events days in advance and to increase hydro generation hours to lower reservoir levels to reduce the potential for spilling and high water. This type of advance action is typically taken from one to five days or more before the expected arrival of the storm. The Normal Operating Ranges of reservoir levels may not allow for this type of reservoir level reduction under anticipated heavy inflow circumstances, and therefore, allowances are made in this MEP to lower reservoir levels below the Normal Minimum Elevations if needed in preparation for such events.

17. Revising the MEP – The Licensee will review the requirements of this MEP each time it is used and will consult with the organizations listed in Item 13 above if the Licensee determines modifications are warranted. If the MEP is modified, the Licensee will inform the Parties to the RA. If any modifications of the MEP require amendment of the New License, the Licensee will: (i) provide notice to all Parties to the RA, pursuant to Section 23.0 of the RA, advising them of the proposed New License amendment and the Licensee’s intent to file it with the FERC; (ii) request the SCDHEC formally review and approve modification of the 401 WQC if required; and (iii) file a license amendment request for FERC approval if required. The filing of a revised MEP by the Licensee will not by itself constitute or require modification of the RA, and any Party to the RA may be involved in the FERC’s or SCDHEC’s public processes for assessing the revised MEP, but may not oppose any part of a revised MEP that is consistent with the MEP included in the RA.
Guidance for Responding to MEP Conditions

This section provides guidance for responding to the most likely MEP conditions (see Table 1 below) when this protocol will be enacted. Required flow releases and normal reservoir operating ranges are the license requirements most likely to be affected by MEP conditions.

Table 1: Conditions and Potential Impacts to License Requirements

<table>
<thead>
<tr>
<th>Condition</th>
<th>Condition Name</th>
<th>Indications</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEP1</td>
<td>Hydro Unit Maintenance</td>
<td>Maintenance will require hydro unit shutdown</td>
</tr>
<tr>
<td>MEP2</td>
<td>Dam Safety Emergency</td>
<td>Condition A or B per the Emergency Action Plan (EAP) (i.e., dam failure has occurred, is imminent or a potentially hazardous situation exists) or some other dam safety concern is identified</td>
</tr>
<tr>
<td>MEP3</td>
<td>Voltage or Capacity Emergency</td>
<td>Voltage or capacity conditions on the electric grid in the Licensee’s system or the larger regional electric grid cause the Licensee’s system reliability and safety to be at risk and a voltage or capacity emergency is declared by the Licensee</td>
</tr>
<tr>
<td>MEP4</td>
<td>Reservoir Drawdown Below Normal Minimum Elevation due to maintenance, emergency or other reasons (not due to low or high inflow)</td>
<td>The reservoir level is below Normal Minimum Elevation</td>
</tr>
<tr>
<td>MEP5</td>
<td>Expected or existing high inflow event</td>
<td>The water level at a reservoir is or is projected to be significantly above or below the Normal Operating Range</td>
</tr>
</tbody>
</table>

Communication with Resource Agencies and Affected Parties

The Licensee will implement the appropriate communications based on the potential license requirements affected by the MEP condition. Communications include the following:

- **Notification** – The Licensee notifies the organization of the MEP event and the Licensee’s planned actions; and
- **Consultation** – The Licensee notifies the organization of the MEP event and the Licensee’s planned actions. The Licensee also requests input from the consulting organizations about options and alternatives to lessen the environmental, cultural, and human impacts of the MEP condition.

Generally, for unplanned and unscheduled MEP conditions, notifications occur as conditions unfold and will be followed by consultation.
Condition MEP1.1 – Scheduled Hydro Unit Maintenance

Mitigating Actions

1. **Scheduling** – To the extent practical, the Licensee will avoid scheduling hydro unit maintenance requiring drawdowns of the Project Reservoirs below the Normal Minimum Elevation during the period April 1 to May 15 to protect black bass spawning and to avoid hindering the Licensee’s ability to provide recreation access during the Peak Recreation Period as defined above.

2. **Drawing Down the Affected Reservoir** – To minimize the impacts to its electric customers, the Licensee may choose to draw down a reservoir using its hydro units to minimize spillage from the dam during maintenance operations. The Licensee may draw down reservoir levels below the Normal Minimum Elevations, but not to levels below the applicable Critical Reservoir Elevations, unless such deeper drawdown is essential for access or safety.

Communication with Resource Agencies and Affected Parties

<table>
<thead>
<tr>
<th>Notification</th>
<th>Consultation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>FERC</td>
<td>AQD FOLKS Large Water Intake owners SCDHEC SCDNR SCDPRT USACE USFWS</td>
<td>If the maintenance will affect any Normal Operating Range for Project Reservoir levels, provide notification and initiate consultation when maintenance schedules are determined, but at least 30 days prior to beginning any reservoir drawdown or the hydro unit maintenance.</td>
</tr>
<tr>
<td></td>
<td>NCSHPO(^1) SCSHPO EBCI</td>
<td>Consult no less than 30 days prior to the planned activity if required by the Historic Properties Management Plan.</td>
</tr>
<tr>
<td>AQD FOLKS MLCA Project Access Area Lessees(^2)</td>
<td></td>
<td>The Licensee will implement notification procedures for any temporary closures of recreation facility/access areas (e.g., closure due to extended low reservoir levels) in accordance with the Recreation Management Plan.</td>
</tr>
<tr>
<td>General Public</td>
<td></td>
<td>When the Licensee determines the response to a MEP condition will potentially impact license conditions, the Licensee will add appropriate messages to its public information Web site and its reservoir level toll-free phone system plus implement other appropriate measures to inform the general public.</td>
</tr>
</tbody>
</table>

Note 1 - If Lake Jocassee is the reservoir being drawn down
Note 2 - If affected by the maintenance
Condition MEP1.2 – Unscheduled Hydro Unit Maintenance

Mitigating Actions

1. **Drawing Down the Affected Reservoir** – To minimize the impacts to its electric customers, the Licensee may choose to draw down a reservoir using its hydro units to minimize spillage from the dam during maintenance operations. The Licensee may draw down reservoir levels below the Normal Minimum Elevations, but not to levels below the applicable Critical Reservoir Elevations, unless such deeper drawdown is essential for access or safety.

<table>
<thead>
<tr>
<th>Notification</th>
<th>Consultation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>FERC</td>
<td>AQD</td>
<td>If the maintenance will affect any Normal Operating Range for Project Reservoir levels, perform notification promptly after the unscheduled maintenance begins, but no longer than 10 days afterwards. Initiate consultation within 10 days.</td>
</tr>
<tr>
<td>AQD</td>
<td>FOLKS</td>
<td></td>
</tr>
<tr>
<td>Folks</td>
<td>MLCA</td>
<td></td>
</tr>
<tr>
<td>Large Water Intake owners</td>
<td>SCDHEC</td>
<td></td>
</tr>
<tr>
<td>MLCA</td>
<td>SCDNR</td>
<td></td>
</tr>
<tr>
<td>SCDPRT</td>
<td>USACE</td>
<td></td>
</tr>
<tr>
<td>USACE</td>
<td>USFWS</td>
<td></td>
</tr>
<tr>
<td>EBCI</td>
<td>NCSHPO1</td>
<td>Consult if required by the Historic Properties Management Plan.</td>
</tr>
<tr>
<td>NCSHPO1</td>
<td>SCSHPO1</td>
<td></td>
</tr>
<tr>
<td>SCSHPO</td>
<td>EBCI</td>
<td></td>
</tr>
<tr>
<td>AQD</td>
<td>FOLKS</td>
<td>The Licensee will implement notification procedures for any temporary closures of recreation facility/access areas (e.g., closure due to extended low reservoir levels) in accordance with the Recreation Management Plan.</td>
</tr>
<tr>
<td>Folks</td>
<td>MLCA</td>
<td></td>
</tr>
<tr>
<td>Project Access Area Lessees</td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Public</td>
<td></td>
<td>When the Licensee determines the response to a MEP condition will potentially impact license conditions, the Licensee will add appropriate messages to its public information Web site and its reservoir level toll-free phone system and implement other appropriate measures to inform the general public.</td>
</tr>
</tbody>
</table>

Note 1 - If Lake Jocassee is the reservoir being drawn down
Note 2 - If affected by the maintenance
**Condition MEP2 – Dam Safety Emergency**

**Mitigating Actions**

1. **Safety Must Come First** – If a Condition A or B is declared per the Licensee’s EAP, or if other dam safety concerns arise, the Licensee may modify or suspend any license conditions immediately and for as long as necessary to restore the dam to a safe condition.

### Communication with Resource Agencies and Affected Parties

<table>
<thead>
<tr>
<th>Timing of Communication</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>During EAP Condition A or B</td>
<td>Conducted strictly in accordance with the Licensee’s EAP. In cases where dam safety concerns arise that are not a Condition A or B per the Licensee’s EAP, consultation with resource agencies and affected parties will occur as soon as practical after the dam safety concern arises.</td>
</tr>
<tr>
<td>Once Dam Safety Conditions Have Stabilized</td>
<td>When the Licensee determines the response to a MEP condition will potentially impact license conditions, the Licensee will add appropriate messages to its public information Web site and its reservoir level toll-free telephone system to inform the general public.</td>
</tr>
<tr>
<td>Access Area Closure Notification</td>
<td>The Licensee will implement notification procedures for any temporary closures of recreation facility/access areas (e.g., closure due to extended low reservoir levels) in accordance with the Recreation Management Plan.</td>
</tr>
</tbody>
</table>
Condition MEP3 – Voltage and Capacity Emergencies

Mitigating Actions

1. **Suspension of the Normal Operating Ranges for Reservoir Levels** – If a voltage or capacity emergency (as defined above) occurs, the Licensee may modify or suspend reservoir level operating limitations immediately and for as long as necessary, if doing so would allow additional hydro station operation needed to restore the electric grid to a stable condition. Reservoir levels will not be reduced below the applicable Critical Reservoir Elevations.

### Communication with Resource Agencies and Affected Parties

<table>
<thead>
<tr>
<th>Notification</th>
<th>Consultation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>FERC</td>
<td>Large Water Intake owners</td>
<td>Perform notification as soon as practical, but no longer than 10 days following the deviation from a license condition for Voltage or Capacity Emergency reasons. Initiate consultation as soon as practical.</td>
</tr>
<tr>
<td>SCDNR</td>
<td>SCDHEC</td>
<td></td>
</tr>
<tr>
<td>SCDPRT</td>
<td>USFWS</td>
<td></td>
</tr>
<tr>
<td>USACE</td>
<td>Large Water Intake owners</td>
<td></td>
</tr>
<tr>
<td>Large Water Intake</td>
<td>SCDHEC</td>
<td></td>
</tr>
<tr>
<td>owners</td>
<td>SCDNR</td>
<td></td>
</tr>
<tr>
<td></td>
<td>SCDPRT</td>
<td></td>
</tr>
<tr>
<td></td>
<td>USACE</td>
<td></td>
</tr>
<tr>
<td></td>
<td>USFWS</td>
<td></td>
</tr>
<tr>
<td>NCSHPO¹</td>
<td>NCSHPO³</td>
<td>Consult if required by the Historic Properties Management Plan.</td>
</tr>
<tr>
<td>SCSHPO</td>
<td>SCSHPO</td>
<td></td>
</tr>
<tr>
<td>EBCI</td>
<td>EBCI</td>
<td></td>
</tr>
<tr>
<td>AQD</td>
<td>FOLKS</td>
<td>The Licensee will implement notification procedures for any temporary closures of recreation facility/access areas (e.g., closure due to extended low reservoir levels) in accordance with the Recreation Management Plan.</td>
</tr>
<tr>
<td>MLCA</td>
<td>Project Access Area Lessees²</td>
<td></td>
</tr>
<tr>
<td>General Public</td>
<td></td>
<td>When the Licensee determines the response to a MEP condition will potentially impact license conditions, the Licensee will add appropriate messages to its public information Web site and its reservoir level toll-free telephone system plus implement other appropriate measure to inform the general public.</td>
</tr>
</tbody>
</table>

Note 1 - If Lake Jocassee is the reservoir being drawn down
Note 2 - If affected by the maintenance
Condition MEP4.1 – Reservoir Drawdown (Planned)

Mitigating Actions

1. **Scheduling** – To the extent practical, the Licensee will avoid scheduling drawdowns of the Project Reservoirs below the Normal Minimum Elevations during the period from April 1 to May 15 to protect black bass spawning and to avoid hindering the Licensee’s ability to provide recreation access during the Peak Recreation Period as defined above.

2. **Avoid Falling Below Critical Reservoir Elevations** – To the extent practical, the Licensee will avoid falling below the applicable Critical Reservoir Elevations as noted above.

### Communication with Resource Agencies and Affected Parties

<table>
<thead>
<tr>
<th>Notification</th>
<th>Consultation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>FERC, AQD, FOLKS, Large Water Intake owners, SCDHEC, SCDNR, SCDPRT, USACE, USFWS</td>
<td>Large Water Intake owners, SCDHEC, SCDNR, SCDPRT, USACE, USFWS</td>
<td>Provide notification and consult when approximate drawdown dates are determined, but at least 30 days prior to beginning drawdown.</td>
</tr>
<tr>
<td>NCSHPO¹, SCSHPO, EBCI</td>
<td>Consult no less than 30 days prior to the planned activity if required by the Historic Properties Management Plan.</td>
<td></td>
</tr>
<tr>
<td>MLCA, Project Access Area Lessees²</td>
<td>The Licensee will implement notification procedures for any temporary closures of recreation facility/access areas (e.g., closure due to extended low reservoir levels) in accordance with the Recreation Management Plan.</td>
<td></td>
</tr>
<tr>
<td>General Public</td>
<td>When the Licensee determines the response to a MEP condition will potentially impact license conditions, the Licensee will add appropriate messages to its public information Web site and its reservoir level toll-free telephone system implement other appropriate measures to inform the general public.</td>
<td></td>
</tr>
</tbody>
</table>

Note 1 - If Lake Jocassee is the reservoir being drawn down
Note 2 - If affected by the maintenance
**Condition MEP4.2 – Reservoir Drawdown (Unplanned)**

### Mitigating Actions

1. **Avoid Falling Below Critical Reservoir Elevations** – To the extent practical, the Licensee will avoid falling below the applicable Critical Reservoir Elevations as noted above.

### Communication with Resource Agencies and Affected Parties

<table>
<thead>
<tr>
<th>Notification</th>
<th>Consultation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>FERC</td>
<td>Large Water Intake owners</td>
<td>Perform notification as soon as practical, but no longer than 10 days after the drawdown begins. Begin consultation within 10 days after the drawdown begins.</td>
</tr>
<tr>
<td>AQD</td>
<td>SCDHEC</td>
<td></td>
</tr>
<tr>
<td>FOLKS</td>
<td>SCDNR</td>
<td></td>
</tr>
<tr>
<td>Large Water Intake</td>
<td>SCDPRT</td>
<td></td>
</tr>
<tr>
<td>owners</td>
<td>USACE</td>
<td></td>
</tr>
<tr>
<td>SCDHEC</td>
<td>USFWS</td>
<td></td>
</tr>
<tr>
<td>SCDNR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SCDPRT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>USACE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>USFWS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large Water Intake</td>
<td>NCSHPO¹</td>
<td>Consult if required by the Historic Properties Management Plan.</td>
</tr>
<tr>
<td>owners</td>
<td>SCSHPO</td>
<td></td>
</tr>
<tr>
<td>SCDHEC</td>
<td>EBCI</td>
<td></td>
</tr>
<tr>
<td>SCDNR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SCDPRT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>USACE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>USFWS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MLCA</td>
<td>NCSHPO¹</td>
<td>The Licensee will implement notification procedures for any temporary closures of recreation facility/access areas (e.g., closure due to extended low reservoir levels) in accordance with the Recreation Management Plan.</td>
</tr>
<tr>
<td>Project Access Area</td>
<td>SCSHPO¹</td>
<td></td>
</tr>
<tr>
<td>Lessees²</td>
<td>EBCI</td>
<td></td>
</tr>
<tr>
<td>General Public</td>
<td></td>
<td>When the Licensee determines the response to a MEP condition will potentially impact license conditions, the Licensee will add appropriate messages to its public information Web site and its reservoir level toll-free telephone system and to implement other appropriate measures to inform the general public.</td>
</tr>
</tbody>
</table>

**Note 1** - If Lake Jocassee is the reservoir being drawn down

**Note 2** - If affected by the maintenance drawdown
Condition MEP5 – Expected or Existing High Inflow Event

Mitigating Actions

1. As outlined in the Key Facts and Definitions section of this protocol, in preparation for high inflow events and to minimize the potential for unplanned spillage the Licensee may reduce reservoir levels below the Normal Minimum Elevation, but not below the applicable Critical Reservoir Elevations. Reservoir levels may also rise significantly above Normal Maximum Elevations as a result of high inflow events. The reservoir levels may be below Normal Minimum Elevations or above Normal Maximum Elevations for as long as necessary to minimize the effects of the high inflow event on the Project Reservoirs and downstream reservoirs and to manage reservoir elevations during high inflow events.

Communication with Resource Agencies and Affected Parties

<table>
<thead>
<tr>
<th>Notification</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>FERC, SCDHEC, SCDNR, SCDPRT, USACE, USFWS</td>
<td>The Licensee will perform notification as soon as practical following or prior to a deviation from license requirements for an existing or expected high inflow event.</td>
</tr>
<tr>
<td>AQD, FOLKS, MLCA, Project Access Area Lessees</td>
<td>The Licensee will implement notification procedures for any temporary closures of recreation facility/access areas (e.g., closure due to extended low or high reservoir levels) in accordance with the Recreation Management Plan.</td>
</tr>
<tr>
<td>General Public</td>
<td>When the Licensee determines the response to a MEP condition will potentially impact license conditions, the Licensee will add appropriate messages to its public information Web site and its reservoir level toll-free phone system plus implement other appropriate measure to inform the general public.</td>
</tr>
</tbody>
</table>
APPENDIX F MAPS

Figure F-1 Property Map
Figure F-2  Lake Keowee (north)
Figure F-3  Lake Keowee (south)
Keowee-Toxaway Hydroelectric Project (FERC No. 2503)
Relicensing Agreement

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APPENDIX G

PROCEDURE TO ALLOW DOCKS TO FOLLOW THE WATER

Purpose

Dock owners, including owners of commercial and residential marinas and public recreation facilities, may “follow the water” in an effort to maintain usability of their boats or docks during LIP Stages 2, 3, or 4. The requirements stated below apply to following the water.

Procedure

1. The Licensee shall work with the SCDHEC and the USACE to obtain revised General Permits for construction in navigable waters, to allow following the water on Lake Jocassee and Lake Keowee. The Parties acknowledge the Licensee may not allow following the water prior to issuance of said General Permits.

2. Following the water is authorized upon the Licensee’s public declaration of LIP Stage 2, 3 or 4. Following the water is no longer allowed once the Licensee publicly declares LIP Stage 1, 0 or Normal.

3. Dock owners shall return their boats or docks to their permitted locations and orientations and remove all temporary anchor pins within 14 calendar days following the Licensee’s public declaration of returning to LIP Stage 1, 0, or Normal.

4. During periods where following the water has been authorized, the Licensee may waive strict application of the then-current SMG requirements that would conflict with following the water (e.g., maximum distance from shoreline, one-third of the cove width, projection of property lines, maximum number of boats moored, etc.).

5. The Licensee reserves the right to require boat and dock owners to immediately restore their boats and docks to their original permitted locations if the owner is not meeting one or more of the requirements for following the water in this Appendix G or one or more of the then-current SMG requirements not waived by the Licensee.

6. Following the water shall not prevent or block access to existing docks or coves or negatively impact shoreline classified as Environmental or Natural under the Licensee’s SMP.

7. Dock owners choosing not to move their docks may moor their boats at docks belonging to other property owners during periods when following the water is allowed if prior permission is obtained from the property owner.

8. The temporary relocation of boats or docks and temporary anchoring of these facilities must not create public safety hazards, navigational hazards, or other issues.

9. No electricity-carrying lines coming from the shoreline can be connected to docks while they are following the water.

10. The Licensee shall not require a lake use permit application or charge any lake use permit-related fees to dock owners to follow the water or to make minor modifications to the docks that would facilitate moving them closer to the water.
(e.g., adding wheels or sleds to gangways, or the like), provided the modification does not result in increased square footage for the dock.

11. The Licensee shall provide information and best-management suggestions for following the water on its website and direct callers to its recorded telephone message line to access the website for such suggestions.
HABITAT ENHANCEMENT PROGRAM (HEP) FOR THE KEOWEE-TOXAWAY HYDROELECTRIC PROJECT

Purpose
The purpose of the HEP is to create, enhance, and protect aquatic and wildlife habitat within the Project Boundaries, including Keowee-Toxaway Hydroelectric Project (Project) Reservoirs and islands, plus any part of the watershed draining into Project Reservoirs by encouraging, reviewing, evaluating, and funding proposals to accomplish this purpose.

HEP Administration
The HEP will be administered in accordance with a Charter that will be developed by the Licensee in cooperation with other interested Parties to the Relicensing Agreement (RA) no later than the SMP Effective Date (defined in Section 7.3 of the RA). Charter development will begin no later than May 1, 2014. The Charter will include the following elements.

- **Establishment of a Proposal Review Committee (PRC)** – The PRC will consist of at least five voting members with knowledge of habitat issues representing Parties to the RA and one Licensee non-voting member to act as a facilitator. The PRC will be established and functioning prior to the distribution of any HEP funds.

- **HEP Proposal Evaluation Schedules** – Proposals requesting HEP funds may be submitted to the Licensee between May 1 and July 31 of each year beginning in 2015. In August of the same year, the Licensee will forward all proposals to the PRC for evaluation and funding recommendations. Funding for successful proposals will be awarded in October of the same year.

- **HEP Proposal Evaluation** – The PRC will establish an approach for evaluating and ranking proposals based on their potential to create, enhance, or protect aquatic and wildlife habitat. The PRC will have the flexibility to identify priority areas for funding plus specific criteria and other mechanisms for evaluating proposals. Proposals with cost sharing and/or in-kind support will be favored.

- **HEP Proposal Recommendations** – The PRC will review and evaluate all HEP proposals and recommend to the Licensee those worthy of funding. All PRC decisions will be by simple majority vote.

- **Funding Decisions** – The Licensee will determine final funding decisions for HEP proposals after considering PRC recommendations. It is the Licensee’s intent to approve all PRC-recommended proposals and the Licensee will review reasons for not accepting a recommended proposal with the PRC.

- **Periodic HEP Fee Evaluations** – The PRC will evaluate the HEP fee schedule in conjunction with each SMP update to determine if the HEP fees should be changed. The Licensee will determine final HEP fee changes after considering the PRC’s recommendations. It is the Licensee’s expectation that it will approve all PRC-recommended HEP fees, and the Licensee will consult with the PRC before rejecting PRC recommended HEP fee changes. Such changes will not constitute or require a modification of the RA. Any Party to the RA may be involved in any Federal Energy Regulatory Commission (FERC) public process for assessing any HEP fee changes, but
may not oppose any part of a revised HEP fee schedule that is consistent with the HEP included in the RA.

- **Licensee’s HEP and PRC Responsibilities** – The Licensee will be responsible for collecting fees, selecting PRC meeting dates, providing PRC meeting agendas, providing proposal copies to all PRC members in advance of the PRC meeting, producing PRC meeting summaries, requesting dispersal of HEP funds from the fund manager (see below), and collecting and distributing annual reports for funded projects.

**HEP Funding**

To help establish the HEP, the Licensee will provide start-up funding which will be supplemented by fees assessed to anyone applying for lake use permits within the Project as outlined below.

**Table 1 – Applicable Fee Payments Into HEP**

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>HEP Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial marina (except True Public Marina)</td>
<td>$500 per slip</td>
</tr>
<tr>
<td>True Public Marina</td>
<td>$500 per slip – first 100 slips $250 per slip – all other slips</td>
</tr>
<tr>
<td>Private residential dock³</td>
<td>$500</td>
</tr>
<tr>
<td>Private residential marina</td>
<td>$500 per slip</td>
</tr>
<tr>
<td>Shoreline stabilization except for bioengineering stabilization</td>
<td>$500</td>
</tr>
<tr>
<td>Bioengineering shoreline stabilization⁴</td>
<td>no HEP fee</td>
</tr>
<tr>
<td>Conveyances</td>
<td>$5,000</td>
</tr>
<tr>
<td>Line crossings</td>
<td>$500</td>
</tr>
<tr>
<td>Private excavations</td>
<td>$500</td>
</tr>
<tr>
<td>All other excavations</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

¹ For combined permits, the highest listed fee will be required. For example, if a lake neighbor submits a combined application to the Licensee for a private dock and shoreline stabilization with rip-rap, the HEP fee would be $500.

² Fee is only for the HEP and is in addition to any permit application fee, user fee, etc.

³ Including dock expansions and other alterations requiring a permit under the SMP.

⁴ HEP fees will be waived only for dock modifications needed to reach deeper water during the window of opportunity (see Section 7.5.2) and bioengineering shoreline stabilization defined in the SMG in effect at the time of proposal implementation and including techniques such as live staking, live fascines, brush mattresses, and reed clumps. HEP fees will also be waived for stabilization using coconut fiber rolls, hay bales, or spot rocks used to reduce wave energy.
until vegetation is established. Enhanced rip-rap and crib walls will not qualify for a HEP fee waiver.

HEP fee collection as identified in Table 1 will begin on the SMP Effective Date. Initiating this program prior to the issuance of the New License will accelerate habitat improvements beneficial to the Project area.

All HEP fees will be collected by the Licensee at the time a final lake use permit request is submitted to the Licensee for evaluation. A separate check made payable to the KT HEP Fund must be received by the Licensee prior to processing any applicable final lake use permit request. If the permit is not approved for any reason, the HEP fee will be refunded to the permit requester.

Complete permit applications post-marked to the Licensee after the SMP Effective Date will be subjected to the applicable HEP Fee, including all marina facility and conveyance applications that have not been approved in writing or filed with the FERC, if applicable. Other than fees listed in Table 1 and the Licensee’s HEP contribution, no contributions will be accepted by the HEP without the Licensee’s approval at its sole discretion.

All HEP monies will be deposited and held by a local 501(c)(3) non-profit organization and dispersed for charitable purposes to implement Licensee-approved HEP proposals.

**HEP Proposal Funding Eligibility**

Any HEP proposal for areas within the Project Boundaries, including the Project Reservoirs and islands, or any part of the watershed flowing into Project Reservoirs will be eligible for HEP funds. Proposals located within or immediately adjoining the Project Boundaries will be given the highest priority. Proposals along or in perennial tributary streams entering the Project Boundaries will be given the next highest priority. Proposals with cost-sharing and/or in-kind support will be favored.

Only entities undertaking Licensee-approved HEP project proposals may receive HEP funding. Organizations may submit proposals to bundle small projects from other types of entities. The Licensee will maintain a list of appropriate HEP fund recipients.

The Licensee will be responsible for any habitat enhancements at Project Access Areas that are not leased to another party. No funds for these enhancements will be provided by the HEP.

Proposals for projects within the Project Boundaries must conform to the then-current SMP when the enhancement will be implemented.

PRC members will not be precluded from submitting proposals, but must be recused from voting on their own proposals.
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APPENDIX I

SOURCE WATER PROTECTION PROGRAM

Purpose

The purpose of the Source Water Protection Program (SWPP) is to protect water quality within the Keowee-Toxaway Hydroelectric Project (Project) Reservoirs, and watersheds draining into Lakes Keowee and Jocassee, through a comprehensive, multi-faceted collaborative program described as follows.

SWPP Administration

The SWPP will be administered by a Clean Water Group (CWG), a 501(c)(3) non-profit organization to be formed consistent with achieving the focus areas specified below. Until such time as all of the Licensee’s funding has been disbursed, the CWG will provide an annual report to the Licensee detailing how the Licensee’s funds were spent and how such activities were consistent with the stated purpose of the SWPP. The annual report to the Licensee will include statements affirming that any limitations on use of the Licensee’s funding as stated in this Appendix I were met.

SWPP Focus Areas

The SWPP will focus on activities associated with protecting water quality at the Project Reservoirs. Initial activities are described below; additional activities intended to protect Project water quality may be identified throughout the New License term by the CWG consistent with the purpose of the SWPP. The CWG charter, members, and availability of matching grants, and/or collaborative funding or program participation will dictate the scope and priority of activities.

- The Licensee’s contribution to the SWPP will be initially dedicated to the further development of water quality models that will allow for more detailed, state-of-the-art assessment of potential impacts of watershed-derived nutrients, reactive carbon and sediment loads on the water quality in Lake Keowee. Development of a calibrated watershed model using the United States Environmental Protection Agency (USEPA)-supported BASINS/HSPF\(^2\) software is proposed to provide the point and non-point source loadings of water, reactive carbon, nutrients and sediments to a proposed EFDC\(^3\)-based, three-dimensional reservoir model. The EFDC model will allow for both assessments of the impacts on water quality in shallower coves of nutrients, carbon and sediment loads draining from the watershed and the lake shoreline and assessments of flow exchange between the coves and main channel of the reservoir. The existing calibrated CE-QUAL-W2 reservoir water quality model developed for Lake Keowee during the relicensing process and the calibrated BASINS model will also be linked to the existing (Cane Creek embayment) or modified BATHTUB model for more easily estimating lakewide potential future effects of stream sediment, reactive carbon and nutrient inputs from all five major tributaries to Lake Keowee (i.e., Cane Creek, Little Cane Creek, Little River, Eastatoe River, and Little Eastatoe Creek) and the lakeshore. These linked models may be used

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\(^2\) BASINS: Better Assessment Science Integrating point & Non-point Sources; HSPF: Hydrological Simulation Program-Fortran

\(^3\) EFDC: Environmental Fluid Dynamics Code
to provide early warning of the eutrophication and algal bloom threats in the major drainage watershed inlet coves/lake arms which may be caused by development in the watersheds over the New License term. The models can also be used to evaluate the relative effectiveness of alternative regulatory and technological water quality protection strategies. Other models may be substituted for those specifically listed above as future modeling options may change.

The Licensee’s contribution to the SWPP may also be used to support SWPP initiatives such as the following which are illustrative and not exclusive.

- Development of a “Find-and-Fix Failed Septic Systems” program to locate failed systems and cost-share repair/replacement/sewer-hookup (if feasible) with the system owners. The SWPP will prioritize its funding based on the potential impact of the failed system on the Project tributaries and Reservoirs. System owners with demonstrated limited financial resources to implement septic system repairs will be given a higher priority than those without demonstrable financial constraints. The Licensee’s funding will not be used to offset repair or replacement costs for septic systems of financially capable owners.

- Educational outreach to provide information on water quality topics such as septic system maintenance; appropriate animal waste management; and methods to reduce non-point source pollution.

- Collaborative development with state and local governmental bodies of comprehensive plans for effective implementation of storm sewer upgrades and controlling non-point source pollution as development proceeds.

**SWPP Funding**

Following implementation of the SWPP per Section 9.4 of the RA, Licensee funds in support of the SWPP will be provided to the CWG. The Licensee’s funding will not be used to pursue legislative or regulatory changes or for litigation. The CWG may seek matching grants and additional funding partners to implement the activities described above.