

SOLAR ENERGY PURCHASE AGREEMENT

Seller Name: _____

Seller Address: _____

Facilities Address _____

This Solar Energy Purchase Agreement (this "SEPA" or this "Agreement") is made this ____ day of _____, 2008 (the "Effective Date") by and between the "**Seller**" and the City of Gainesville, Florida, a municipal corporation d/b/a Gainesville Regional Utilities ("**Buyer**") with its principal place of business at 301 SE 4th Ave, Gainesville, FL. Seller and Buyer are hereinafter referred to individually as a "Party" and collectively as the "Parties".

WHEREAS, Buyer desires to purchase solar electric energy together with the environmental attributes associated with it; and

WHEREAS, Seller desires to develop, design, construct, own and operate a solar electric generating Facility with an expected combined nameplate capacity of approximately _____ kilowatts before the end of this calendar year, and which are further described below as the "Facilities"; and

WHEREAS, the scale and design of the Facilities is accommodated by the Buyer's current criteria and policies for interconnection and purchase of solar power by means of a "Feed In Tariff" as defined and legislated by City of Gainesville in Appendix A of Section 27, City of Gainesville's Code of Ordinances; and

WHEREAS, Seller desires to sell 100% of the output of the Facilities, further defined below as Solar Energy, to Buyer, and Buyer has accepted Seller's offer in accordance with the terms and conditions set forth in this SEPA;

NOW THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

ARTICLE 1 – DEFINITIONS

1.1 "Environmental Attributes" means any and all regulatory credit or market value accrued as the result of generating solar energy, including but not limited to renewable energy credits, carbon offsets, SO₂ and NO_x emission offsets, and any other environmental benefits, reductions, offsets, allowances, certificates, or green tags resulting from the generation of Solar Energy or the avoidance of the emissions of any gas, chemical or other substance to the air attributable to the electricity generated by the Facility. For the avoidance of doubt, "Environmental Attributes" exclude: (i) any local, state or federal production or investment tax credit, depreciation deductions or other tax consideration providing a tax benefit based on ownership or a security interest in the Facility, or energy production from any portion of the Facility, including any investment tax credit expected to be available to Seller with respect to the Facility, including but not limited to any tax credit available under United States Code Title 26, Subtitle A, Chapter 1, Subchapter A, Part IV, Subpart E, Section 48 (*Energy Credits*), as amended; and (ii) depreciation deductions and benefits, and other tax benefits arising from ownership or operation of the Facility

unrelated to its status as a generator of renewable or environmentally clean energy.

1.2 “Facility” or “Facilities” means Seller’s solar electric generating equipment which produces solar energy subject to this SEPA, each of which delivers such electricity to the Buyer at a single Point of Connection. This SEPA anticipates that the Seller may have more than one Facility covered by this agreement, which are in the aggregate called Facilities for the purposes of this SEPA. Each Facility will include equipment or other tangible assets necessary for the operation and maintenance of Solar Energy, including but not limited to solar modules, mounting systems, wiring harnesses, conduits, inverters, transformers, breakers, lightning protection, and grounding apparatus, together with any easements or leases the Seller needs for the construction operation and maintenance of the Facility and the delivery of Solar Energy to the point of connection. Any Facility covered by this SEPA will be owned by Seller and will be operated and maintained by Seller at the Seller’s sole cost and expense, for Seller’s benefit as legal and beneficial owner of the Facility.

1.3 “Interconnection Agreement” The agreements between the Buyer and Seller setting forth the terms and conditions under which the Seller’s Facilities are Interconnected with the Buyer’s, as attached here as Exhibit A which by this reference is incorporated herein.

1.4 “Point of Connection” or “Interconnection Point” means the physical location where a Facility is electrically connected to the Buyer’s electrical system and the output of the Facility is metered for billing and invoicing.

1.5 “Solar Energy” means the energy produced by the facility from the conversion of sunlight to electricity. The devices that perform this conversion produce direct current voltage which then must be transformed to alternating current synchronized to the Buyer’s frequency and voltage at the Point of Connection.

ARTICLE 2 – GENERAL PROVISIONS

2.1 Applicability. This SEPA shall only apply to Facilities to be installed by the Seller within the current calendar year at the aforementioned “Facilities Address” for the express purpose of selling 100% of the Solar Energy output of the Facility to the Buyer. Exhibit A describes the Facilities covered under this SEPA.

2.2 Interconnection Requirements. Notwithstanding any other provision of this SEPA Buyer shall have no obligation to purchase Solar Energy from any Facility until and unless Seller has executed and is in compliance with the Interconnection Agreement associated with that Facility. If additional Facilities (in addition to those described in Exhibit A) are installed at this location and within this calendar year, this SEPA must be amended to include the Interconnection Agreement associated with each Facility. If any conflict between this SEPA and any Interconnection Agreement incorporated by reference occurs, the Interconnection Agreement shall take precedence. Disconnection of any Facility from the Buyer’s electric system for any contractual, operational or safety reason, shall not obligate the Buyer to replace any revenues thus lost by the Seller.

2.3 Metering. Seller shall at Seller’s sole cost and expense provide the meter socket approved by the Buyer, while the Buyer at no additional cost to the Seller shall provide the meter. Any request by Seller to test the metering accuracy shall be conducted at Seller’s cost pursuant to Buyer’s prevailing rates, practices and policies for testing retail revenue meters.

2.4 No Electric Supply to the Facility. The Parties recognize that this SEPA does not provide for the supply of any electric service by Buyer to Seller or to the Facilities, and Seller must enter into separate arrangements for the supply of electric services to the Facility, including any needed supply of station service. Should the Facility need any electric house power, Buyer will supply a

connection point for Seller. Seller shall make the appropriate connection arrangements and shall pay Buyer the market rate for power consumed and customer charges as required by the Buyer.

2.5 Facility Operation. Seller shall staff, control, and operate each Facility in a manner consistent at all times with the Interconnection Agreement associated with that Facility. Personnel employed by the Seller capable of starting, operating and stopping the Facilities shall be reachable by telephone, pager or similar wireless communication device at all times.

2.6 Information Requirement. Seller shall provide documentation signed by system provider of total installed cost and capacity of the facility covered by this agreement.

ARTICLE 3 – TERM OF AGREEMENT

The Term hereof shall begin on the Effective Date and shall, unless sooner terminated or amended as provided herein, end on December 31, _____ (the “Expiration Date”). Seller may terminate this agreement at any time and is under no obligation to produce Solar Energy.

ARTICLE 4 – SALE AND PURCHASE OF SOLAR ENERGY

4.1 Sale and Purchase Obligation. During the Term and subject to the provisions of this SEPA, Seller shall sell and deliver or cause to be delivered, and Buyer shall purchase and receive or cause to be received, one hundred percent (100%) of the Solar Energy generated by the Facility.

4.2 Solar Fuel Exclusivity. No energy from a fuel source other than solar shall be generated, distributed or transmitted from this Facility.

4.3 Solar Energy Price. Buyer shall pay Seller for each kilowatt hour (“kWh”) of solar energy that is actually produced and delivered by Seller to the interconnection point at the rate of _____.

4.4 Monthly Customer Charges. Seller shall be responsible to pay the prevailing monthly customer service charge applicable to General Service Non-Demand retail accounts pursuant to Appendix A of Section 27, City of Gainesville’s Code of Ordinances for each Facility.

4.5 Taxes and Fees. Seller shall have sole responsibility for paying any applicable taxes or fees applicable to the Facility or from the sale of Solar Energy to the Buyer.

ARTICLE 5 – BILLING AND PAYMENT

5.1 Records, Invoices, and Payments. Each Facility shall be treated as a unique account in the Buyer’s accounting system which shall record the amount of Solar Energy delivered by the Seller and which will produce the invoice of payment due from the Buyer. The meter at the interconnection point of each Facility shall be read as part of the Buyer’s normal metering reading procedures, which is approximately once a month. The kilowatt-hours delivered to the Buyer shall then be recompensed to the Seller on a monthly basis.

5.2 Billing Disputes. Either Party may dispute invoiced amounts, but shall pay to the other Party at least the undisputed portion of invoiced amounts on or before the invoice due date. To resolve any billing dispute, the Parties shall use the procedures set forth in Section 10.8. When a billing dispute is resolved, the Party owing shall pay within thirty (30) Business Days of the date of such resolution, with late payment interest charges calculated at 0.016% compounded daily.

ARTICLE 6 – SUCCESSORS AND ASSIGNS

6.1 –Assignment by Seller. This Agreement shall not be assigned by Seller to any party

without the prior written consent of Buyer, which shall not be unreasonably withheld or delayed; provided that Seller may collaterally assign its interest hereunder to lender or any financial institution or institutions participating in the financing of the Facility. In the event of the assignment of this Agreement by Seller to lender or any financial institution or institutions participating in the financing of the Facility, Seller shall remain fully responsible according to this Agreement for all of its obligations and liabilities hereunder. No such assignment shall alter or impair the rights of any surety. Buyer agrees to provide such legal opinions and consents as may be reasonably requested by Seller and Seller's lender in connection with such financing.

- 6.2 Assignment by Purchaser. This Agreement shall not be assigned by Buyer without the prior written consent of Seller, which shall not be unreasonably withheld or delayed.
- 6.3 Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties to this Agreement and any successor or assignee acquiring an interest hereunder consistent with Sections 6.1 and 6.2 hereof.

ARTICLE 7 – EVENTS OF DEFAULT

Failure of any Facility to stay in compliance with its associated Interconnection Agreement shall be an event of default and may result in the Buyer disconnecting the Facility in question from the electric system. Should the seller participate in any form of current diversion or theft of electricity from the Buyer, such act will be considered an event of default. Upon an Event of Default by Seller and upon the expiration of any cure or notice period required by this Agreement, Buyer may:

- (1) Terminate this Agreement as provided in Article 10 of the Interconnection Agreement;
- (2) Recover from Seller the damages Buyer incurred as a direct result of the Event of Default; and
- (3) Except as may be limited under the terms of this SEPA, exercise any other remedy Buyer may have at law or equity.

ARTICLE 8 – CONTRACT ADMINISTRATION AND NOTICES

8.1 Notices in Writing. Notices required by this SEPA shall be addressed to the other Party at the addresses as noted below:

Seller: _____

Buyer: Assistant General Manager for Energy Delivery and
Assistant General Manager For Strategic Planning
P.O. Box 147117 Station A136
Gainesville, Florida 32614-7117
Phone: 352-393-1260
Fax: 352-334-3151

8.2 Dispute Resolution. In the event of any dispute arising under this SEPA (a "Dispute"), within ten (10) Business Days following the delivered date of a written request by either Party (a "Dispute Notice"), the Parties' Authorized Representatives shall meet, negotiate and attempt in good faith to resolve the Dispute quickly, informally and inexpensively. In the event the Authorized Representatives cannot resolve the Dispute within thirty (30) Business Days after commencement of negotiations, within ten (10) Business Days following any request by either Party at any time thereafter, each Authorized Representative (i) shall independently prepare a written summary of the Dispute describing the issues and claims, (ii) shall exchange its summary with the summary of the Dispute prepared by the other Authorized Representative, and (iii) shall submit a copy of both summaries to a senior officer of the Authorized Representative's Party with authority to irrevocably bind the Party to a resolution of the Dispute. Promptly upon receipt of the Dispute summaries, the senior officers for both Parties shall negotiate in good faith to resolve the Dispute. If the Parties are unable to resolve the Dispute within fourteen (14) Business Days following receipt of the Dispute summaries by the senior officers, either Party may seek available legal remedies. Notwithstanding any provision in this SEPA to the contrary, if no Dispute Notice has been issued within four (4) months following the occurrence of all events and the existence of all circumstances giving rise to the Dispute (regardless of the knowledge or potential knowledge of either Party of such events and circumstances), the Dispute and all claims related thereto shall be deemed waived and the aggrieved Party shall thereafter be barred from proceeding thereon.

ARTICLE 9 – NO THIRD PARTY BENEFICIARIES

Nothing in this SEPA confers, is intended to confer, or shall be deemed to confer upon any party other than the Parties hereto and their permitted successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this SEPA except as expressly provided in this SEPA.

ARTICLE 10 - COMPLETE AGREEMENT; AMENDMENTS

The terms and provisions contained in this SEPA constitute the entire agreement between Buyer and Seller. No amendment to this SEPA shall be effective unless in writing and signed by both Parties hereto.

ARTICLE 11 – CONTROLLING LAW; VENUE

The validity, performance, and all matters relating to the interpretation and effect of this SEPA shall be governed by the laws of the State of Florida and the venue for any dispute shall be Alachua County, Florida.

IN WITNESS WHEREOF, the Parties have executed this SEPA.

Seller:

Seller Inc.

By: _____

Name: _____

Title: _____

Date: _____

Buyer:

The City of Gainesville, Florida

d/b/a Gainesville Regional Utilities

By: _____

Approved as to form and legality

Utilities Attorney

Name: Robert L. Hunzinger
Title: General Manager
Date: _____

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