

FPL ACCOUNT No. _____

FPL PREMISE No. _____

MOMENTARY PARALLEL OPERATION INTERCONNECTION AGREEMENT

This Agreement is made this _____ day of _____, _____ by and between _____ (hereinafter called "the Customer"), located at _____ in _____, Florida and Florida Power & Light Company, a corporation organized and existing under the laws of the State of Florida (hereinafter called "FPL").

WITNESSETH:

WHEREAS, the Customer has requested that electric service requirements for the customer's load be supplied or supplemented from the Customer's generation during periods of outages of power ordinarily supplied by FPL, which condition requires the Customer's generation to operate momentarily in parallel with FPL's system to enable the Customer to transfer its load from FPL's source to the Customer's generation in order to continue the uninterrupted flow of power to the Customer's load; and

WHEREAS, FPL is willing to permit or to continue to permit such momentary parallel operation under the terms and conditions specified herein;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein set forth, the parties hereto covenant and agree as follows:

1. Attached hereto as Appendix A are FPL's guidelines to the Customer delineating momentary interconnection requirements. The Customer must comply with these guidelines; however, such compliance does not constitute FPL approval of a proposed interconnection design.
2. The Customer must submit an application for permission to momentarily parallel with FPL's system (a sample application is attached hereto as Appendix B), and thereafter obtain specific and final approval from FPL of the proposed interconnection design.
3. The Customer shall be required to pay any costs deemed by FPL to be extraordinary (when compared to the guidelines in Appendix A) and related to review and approval or disapproval of the design and construction, as well as inspection and operation, of the interconnection facilities. These costs may also include installation and operation and maintenance related to any equipment required to effect a proper interconnection, both at the location of the Customer's generation and at locations on FPL's system.
4. The design requirements of the Customer interconnection configuration and equipment shall be implemented in a manner which minimizes any potential negative impacts on FPL's customers, personnel and equipment.
5. The interconnection between FPL's system and the Customer's generation shall be at distribution voltage levels (i.e., below 69 kV). Service must be three-phase, 60 hertz at the available standard distribution voltage level(s). All service supplied by FPL shall be furnished through one metering point.
6. The Customer shall operate and maintain its interconnection facilities in a safe and reliable manner and shall immediately notify FPL in the event of any hazardous or unsafe condition(s).
7. The parallel operation time between FPL's system and the Customer's generation shall not exceed 100 milliseconds.
8. The Customer's generation shall be promptly disconnected from FPL's system upon request of FPL and automatically through the operation of protective equipment.

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9. The Customer shall provide FPL an annual test (certified by a registered engineer licensed in the State of Florida) report of the overlapping transfer time. Failure to pass the annual test may result in disconnection of power and void this Agreement.
10. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL’s General Rules and Regulations, at least fifteen (15) days prior to the commencement of construction of the interconnection facilities, the Customer shall procure, or cause to be procured, a commercial general liability insurance policy, including, but not limited to, broad form contractual liability coverage and Products/Completed Operations Liability Coverage for the benefit of FPL, its parent, subsidiaries and any company of FPL Group Inc., and their respective officers, directors, employees, agents and contractors ("FPL Entities") for the term of this Agreement and for all liabilities which might arise under, or in the performance or nonperformance of, this Agreement.
11. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL’s General Rules and Regulations, the policy(ies) shall be in a minimum limit of \$1,000,000 per occurrence, combined single limit, for bodily injury (including death) or property damage. FPL Entities shall be designated as either named insured or an additional named insured, and the policy(ies) shall be endorsed to be primary to any insurance which may be maintained by or on behalf of FPL Entities. The Customer shall provide evidence of the minimum coverage by providing ACORD or other certificate of insurance acceptable to FPL before any work under this Agreement begins. In the event of the Customer’s failure to provide evidence of minimum coverage of insurance, FPL’s failure to request evidence of such shall not release the Customer from its obligation to maintain the minimum coverage specified in this Section 11. The commercial general liability insurance policy(ies) shall not be cancelled or materially altered without at least thirty (30) days advance written notice to FPL.
12. Governmental entities authorized under Florida or federal law to be self-insured, in lieu of providing evidence of adequate commercial insurance, have the option of providing to the Company evidence that the applicant has established an adequate self-insurance plan to cover the obligations of indemnification referenced herein; and shall, upon request, provide such other information as the Company may deem necessary and relevant. The self-insurance plan shall not be cancelled or materially altered without at least thirty (30) days advance written notice to FPL.
13. In addition to the minimum coverage outlined above, the various commercial general liability insurance policies are subject to FPL’s approval and, upon request, the Customer shall make certified copies of these various general liability insurance policies, and/or information regarding the self-insurance plan, available for inspection by FPL’s Risk Management Department within fifteen (15) days of a request therefore. Any inspection of such plans or policies shall not obligate FPL to advise the Customer of any deficiencies in such plans or policies, and such inspection shall not relieve the Customer from, or be deemed a waiver of, FPL’s right to insist on strict fulfillment of the Customer’s obligations hereunder.

IN WITNESS WHEREOF, the Customer and FPL have executed this Agreement this _____ day of _____, 20 ____.

Witness for the Customer

Witness for FPL:

CUSTOMER

By _____

Title _____

FLORIDA POWER & LIGHT COMPANY

By _____

Title _____

FPL ACCOUNT No _____

FPL PREMISE No. _____

**INTERCONNECTION AGREEMENT
FOR QUALIFYING FACILITIES**

Florida Power & Light Company (hereinafter called "FPL") agrees to interconnect with _____ a Qualifying Facility or, as appropriate, a Qualifying Facility that is a Distributed Resource as referenced in the Institute of Electrical and Electronics Engineers ("IEEE") Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems (hereinafter called the "the QF"), subject to the following provisions:

1. Facility.

The QF's generating facility (hereinafter called the "Facility"), is to be or is located at _____, within FPL's service area. The QF intends to have the Facility installed and operational on or about _____, 20____. The QF shall provide FPL a minimum of 30 days prior written notice of the Facility's initial generating operation, and it shall cooperate with FPL to arrange initial deliveries of power to FPL's system.

The Facility has been or will be certified or self-certified as a "qualifying facility" pursuant to the rules and regulations of the Florida Public Service Commission ("FPSC") or the Federal Energy Regulatory Commission ("FERC"). The QF shall maintain the qualifying status of the Facility throughout the term of this Agreement.

2. Construction Activities.

The QF shall provide FPL with written instructions to proceed with construction of the interconnection facilities as described in this Agreement at least 24 months prior to the date on which the interconnection facilities shall be completed. FPL agrees to complete the interconnection facilities as described in this Agreement within 24 months of receipt of written instructions from the QF agreeing to the proposed designation and authorizing FPL to proceed with detailed engineering.

Within sixty days of FPL's receipt of the QF's final electrical plans pursuant to FPSC Rule 25-17.087(4), and written instructions to commence construction, FPL shall provide to the QF a written cost estimate of all required materials and labor, and an estimate of the date by which construction of the interconnection will be completed.

Upon the parties' agreement as to the appropriate interconnection design requirements and FPL's receipt of written instructions delivered by the QF authorizing FPL to proceed with detailed engineering, FPL shall engineer and perform or cause to be performed all of the work necessary to interconnect the Facility with the FPL system.

The QF agrees to pay FPL all expenses incurred by FPL regarding the procurement, design, construction, operation, supervision, overhead, maintenance and replacement of the interconnection facilities necessary for integration of the Facility into FPL's electrical system, including (as appropriate) necessary internal improvements to the FPL transmission system; to the extent that any such transmission improvements affect the Adjustment to Capacity Payment as described in Rate Schedule COG-2, then appropriate adjustments will be made to the capacity payment. Such interconnection costs shall not include any costs which FPL

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would otherwise incur if it were not engaged in interconnected operations with the QF, but instead simply provided the electric power requirements of the Facility with electricity either generated by FPL or purchased from another source.

The QF agrees to pay the costs for complete interconnection work () within 30 days after FPL notifies the QF that such interconnection work has been completed, and to provide, concurrently with the liability insurance mandated by Section 10, a surety bond, letter of credit or comparable assurance of payment adequate to cover the interconnection cost estimates set forth on Exhibit A, or () to pay monthly invoices from FPL for actual costs progressively incurred in installing the interconnection facilities, or () based upon a demonstration of credit worthiness acceptable to FPL in _____ (up to 36) monthly installments, plus interest on the outstanding balance calculated at the 30-day highest grade commercial paper rate in effect 30 days prior to the date each payment is due, with the first such installment payment being due 30 days after FPL notifies the QF that interconnection work has been completed.

In the event that the QF notifies FPL in writing to cease interconnection work before its completion, the QF shall be obligated to reimburse FPL for the interconnection costs incurred up to the date such notification is received.

3. Cost Estimates.

Attached hereto as Exhibit A is a document entitled "QF Interconnection Cost Estimates". The parties agree that the cost of the interconnection work contained therein is a good faith estimate of the actual cost to be incurred.

4. Technical Requirements and Operations.

The parties agree that the QF's interconnection with, and delivery of electricity into, the FPL system must be accomplished in accordance with the provisions of FPSC Rule 25-17.087. FPSC Rule 25-17.087 is attached hereto as Exhibit B and made a part of this Agreement. Additionally, the parties agree that for QFs that are Distributed Resources as provided in FPSC Order No. PSC-06-0707-PAA-EI, Issued August 18, 2006 in Docket No. 060410-EI, the QF's interconnection with the FPL system must be accomplished in accordance with the provisions of the IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as applicable, that are in effect at the time of construction.

The QF agrees to require that the Facility operator immediately notify FPL's system dispatcher by telephone in the event hazardous or unsafe conditions associated with the parties' parallel operations are discovered. If such conditions are detected by FPL, then FPL will likewise immediately contact the operator of the Facility by telephone. Each party agrees to immediately take whatever appropriate corrective action is necessary to correct the hazardous or unsafe conditions.

5. Interconnection Facilities.

The interconnection facilities shall include the items listed in the document entitled "Interconnection Facilities", which is attached hereto as Exhibit C and hereby made an integral part of this Agreement.

Interconnection facilities on FPL's side of the ownership line with the QF shall be owned, operated, maintained and repaired by FPL. The QF shall be responsible for the cost of designing, installing, operating and maintaining the interconnection facilities on the QF's side of the ownership line as indicated as Exhibit C. The QF shall be responsible for establishing and maintaining controlled access by third parties to the interconnection facilities. FPL metering equipment required to be located on the QF's side of the ownership line shall be owned operated, maintained, tested, repaired and replaced by FPL.

(Continued on Sheet No. 9.802)

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6. Maintenance and Repair Payment.

FPL will separately invoice the QF monthly for all costs associated with the operation, maintenance and repair of the interconnection facilities. The QF elects to pay for such work on a () actual cost or () on a percentage basis, as set forth in Rate Schedules COG-1 and COG-2. The QF agrees to pay FPL within 20 days of receipt of each such invoice.

7. Site Access.

In order to help ensure the continuous, safe, reliable and compatible operation of the Facility with the FPL system, the QF hereby grants to FPL, for the period of interconnection, the reasonable right of ingress and egress, consistent with the safe operation of the Facility, over property owned or controlled by the QF to the extent that FPL deems such ingress and egress necessary in order to examine, test, calibrate, coordinate, operate, maintain or repair any interconnection equipment involved in the parallel operation of the Facility and FPL's system, including FPL's metering equipment.

8. Construction Responsibility.

In no event shall any FPL statement, representation, or lack thereof, either express or implied, relieve the QF of its exclusive responsibility for the Facility. Specifically, any FPL inspection of the Facility shall not be construed as confirming or endorsing the Facility's design or its operating or maintenance procedures, or as a warranty or guarantee as to the safety, reliability, or durability of the Facility's equipment. FPL's inspection, acceptance, or its failure to inspect shall not be deemed an endorsement of any Facility equipment or procedure.

9. Indemnification.

FPL and the QF shall each be responsible for its own facilities. FPL and the QF shall each be responsible for ensuring adequate safeguards for other FPL customers, FPL and the QF personnel and equipment, and for the protection of its own generating system. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, FPL and the QF shall each indemnify and save the other and the other's officers, directors, employees, agents and contractors (hereinafter called, respectively, "FPL Entities" and "QF Entities") harmless from any and all claims, demands, costs, or expense for loss, damage or injury to persons or property of the other caused by, arising out of, or resulting from:

- (a) Any act or omission by a party of that party's contractors, agents, servants and employees in connection with the installation or operation of that party's generation system or the operation thereof in connection with the other party's system;
- (b) Any defect in, failure of, or fault related to, a party's generation system;
- (c) The negligence of a party or negligence of that party's Entities (as above defined); or
- (d) Any other event or act which is the result of, or proximately caused by, that party's Entities.

(Continued on Sheet No. 9.803)

(Continued from Sheet No. 9.802)

10. Insurance

Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, the QF shall procure or cause to be procured a policy or policies of liability insurance issued by an insurer or insurers satisfactory to FPL on a standard "Insurance Services Office" commercial general liability form. Governmental entities authorized under Florida or federal law to be self-insured, in lieu of providing evidence of commercial insurance, have the option of providing to the Company evidence that the applicant has established an adequate self-insurance plan to cover any obligations of indemnification; and/or such other information as the Company may deem necessary and relevant. A certificate of insurance shall be delivered to FPL at least fifteen calendar days prior to the start of any interconnection field work. At a minimum, the QF's policy(ies) or self-insurance plan, if applicable, shall contain: (i) an endorsement providing coverage including, but not limited to, products liability/completed operations coverage for the term of this Agreement; and (ii) a broad form contractual liability endorsement covering liabilities which might arise under, or in the performance or nonperformance of, this Contract and the Parties' (interconnection) (transmission service) agreement dated _____, _____, or caused by operation of any of the QF's equipment or by the QF's failure to maintain the QF's equipment in satisfactory and safe operating condition. Effective at least fifteen calendar days prior to the synchronization of the Facility with FPL's system, the policy(ies) or self-insurance plan, if applicable, shall be amended to include coverage for interruption or curtailment of power supply in accordance with industry standards.

Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, the QF's policy(ies) or self-insurance plan, if applicable, shall have a minimum limit of \$1,000,000 per occurrence, combined single limit, for bodily injury (including death) or property damage. A higher limit of QF insurance may be provided if the QF deems it necessary. Any premium assessment or deductible shall be for the account of the QF and not FPL Entities.

In the event that the policy(ies) is (are) on a "claims made" basis, the retroactive date of the policy(ies) shall be the effective date of this Agreement or such other date as to protect the interests of FPL Entities and QF Entities. Furthermore, if the policy(ies) is (are) on a "claims made" basis, the QF's duty to provide insurance coverage shall survive the termination of this Agreement until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort; if coverage is on an "occurrence" basis, such insurance shall be maintained by the QF during the entire period of interconnection and performance by the parties under this Agreement. The QF's policy(ies) or self-insurance plan, if applicable, shall not be cancelled or materially altered without at least thirty calendar days written notice to FPL. Coverage must be reasonably acceptable to FPL.

The QF shall provide to FPL evidence of the QF's liability insurance coverage and the standard insurance industry form (ACORD) without modification. A copy of the QF's policy(ies) or self-insurance plan, if applicable, shall be made available for inspection by FPL at the QF's offices upon reasonable advance notification.

FPL Entities shall be designated as an additional named insured under all QF policy(ies), including any policy(ies) obtained at the election of the QF as envisioned above.

In addition to the minimum coverage outlined above, the various commercial general liability insurance policies are subject to FPL's approval and, upon request, the Customer shall make certified copies of these various general liability insurance policies, and/or information regarding the self-insurance plan, available for inspection by FPL's Risk Management Department within fifteen (15) days of a request therefore. Any inspection of such plans or policies shall not obligate FPL to advise the Customer of any deficiencies in such plans or policies, and such inspection shall not relieve the Customer from, or be deemed a waiver of, FPL's right to insist on strict fulfillment of the Customer's obligations hereunder.

11. Taxation

In the event that FPL becomes liable, after the execution of this Agreement, for additional taxes, including interest and/or penalties, as a result of failing any of the tests in Internal Revenue Service (IRS) Notice 88-129, 1988-2 CB 541 (identified through an IRS audit or otherwise), thus causing the QF's payment for the interconnection facilities to be taxable income for federal and/or state income tax purposes, FPL may bill the QF monthly for such additional costs, including taxes, interest and/or penalties, or may offset them against amounts due the QF under any FPL/QF power purchase agreement. These costs would be calculated so as to place FPL in the same economic position in which it would have been if the payment for interconnection facilities had not been deemed to be taxable income. If FPL decides to appeal the IRS' determination, the decision as to whether the appeal should be made through the administrative or judicial process or both, and all subsequent decisions pertaining to the appeal (both substantive and procedural), shall rest exclusively with FPL.

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In the event that IRS Notice 88-129 is modified, clarified, explained or changed in any manner, all recognized IRS authority on this issue shall be used to determine whether any additional costs are due under this Section.

12. **Electric Service to the QF.**

FPL will provide the class or classes of electric service requested by the QF, to the extent that they are consistent with applicable tariffs.

13. **Notification.**

All formal notices affecting the provisions of this Agreement shall be delivered in person or sent by registered or certified mail to the individuals designated below. The parties designate the following to be notified or to whom payment shall be sent until such time as either party furnishes the other party written instructions to contact another individual:

For the QF: _____

Phone: _____

For FPL: _____

Phone: _____

IN WITNESS WHEREOF, the QF and FPL executed this Agreement this _____ day of _____, 20_____.

WITNESS:

FLORIDA POWER & LIGHT COMPANY (FPL)

Date: _____

WITNESS:

_____ (QF)

Date: _____

RESERVED FOR FUTURE USE

RESERVED FOR FUTURE USE

RESERVED FOR FUTURE USE

RESERVED FOR FUTURE USE

RESIDENTIAL OPTIONAL SUPPLEMENTAL POWER SERVICES AGREEMENT

THIS Residential Optional Supplemental Power Services Agreement (“Agreement”) is made and entered into this ____ day of _____, 20__ by and between _____, having a primary residence located at _____ (hereafter, the “Customer”) and Florida Power & Light Company, a Florida corporation, having offices at 700 Universe Boulevard, Juno Beach, Florida 33408 (hereafter “Company”)(each a “Party” and collectively the “Parties”). The Service (as defined in the paragraph below) provided under this Agreement is subject to the Rules and Orders of the Florida Public Service Commission (“FPSC”) and to Company’s Electric Tariff, including, but not limited to the Optional Supplemental Power Services Rider, Rate Schedule OSP-1, as approved or subsequently revised by the FPSC (hereafter the “Rider”) and the General Rules and Regulations for Electric Service as they are now written, or as they may be hereafter revised, amended or supplemented (collectively, hereafter referred to as the “Electric Tariff”). In case of conflict between any provision of this Agreement and the Electric Tariff, this Agreement shall control. Capitalized terms not defined herein shall have the meaning set forth in the Electric Tariff.

WHEREAS, the Customer hereby applies to Company for receipt of service, as more specifically described in a Statement of Work (“SOW”), for the purpose of providing an alternative source of power supply and/or power conditioning service in the event Customer’s normal electric supply is disrupted (hereafter the “Service”) at the Customer residential property located at _____ (hereafter the “Residential Property”).

NOW THEREFORE, in consideration of their mutual promises and undertakings, the Parties agree to the following terms and conditions in this Agreement:

1. **Effective Date.** This Agreement shall become effective upon the acceptance hereof by Company (“Effective Date”), evidenced by the signature of Company’s authorized representative appearing below, which, together with the Electric Tariff and the SOW, shall constitute the entire agreement between the Customer and Company with respect to provision of the Service.
2. **Term of Agreement.** The term of this Agreement will commence on the Effective Date and will continue for ____ years following the Residential Operation Date as defined in Section 4(a) below (the “Term”).
3. **Scope of Services.** Company will design, procure, install, own, operate, and provide maintenance to all alternative sources of power supply and/or power conditioning equipment (“Equipment”) to furnish the Service as more specifically described in the SOW. Customer acknowledges and agrees that (i) the Equipment will be removable and will not be a fixture or otherwise part of the Residential Property, (ii) Company will own the Equipment, and (iii) Customer has no ownership interest in the Equipment. For the avoidance of doubt, it is the Parties’ intent that this Agreement (i) is for the Company’s provision of Services to Customer using Company’s Equipment, and (ii) is not for the license, rental or lease of the Equipment by Company to Customer.
4. **Design and Installation.** Company will design, procure, and install the Equipment pursuant to the requirements of the SOW.
 - (a) **Residential Operation.** Upon completion of the installation of the applicable Equipment in accordance with the requirements of the SOW, Company shall deliver to Customer a notice that the Equipment is ready for operation, with the date of such notice being the “Residential Operation Date”.
 - (b) **Commencement of Monthly Service Payment Upon Residential Operation Date.** Customer’s obligation to pay the applicable Customer’s monthly Service payment, plus applicable taxes due from Customer pursuant to Section 6 (Customer Payments), shall begin on the Residential Operation Date and shall be due and payable by Customer pursuant to the General Rules and Regulations for Electric Service.
5. **Equipment Maintenance; Alterations.** During the Term, Company shall provide maintenance to the applicable Equipment in accordance with generally accepted industry practices. Customer shall promptly notify Company when Customer has knowledge of any operational issues or damage related to the Equipment. Company shall inspect and repair Equipment that is not properly operating within the timelines agreed upon in the SOW. Company will invoice Customer for repairs that are the Customer’s financial responsibility under

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Section 12(c), due and payable by Customer within thirty (30) days of the date of such invoice. The Customer shall not manually operate or test Equipment, move, modify, remove, adjust, alter or change in any material way the Equipment, or any part thereof, during the term of the Agreement, except in the event of an occurrence reasonably deemed by the Customer or Company to constitute a bona fide emergency. All replacements of, and alterations or additions to, the Equipment shall become part of the Equipment. In the event of a breach of this Section 5 by Customer, Company may, at its option and sole discretion, restore Equipment to its original condition at Customer's sole cost and expense.

6. Customer Payments.

(a) Fees. The Customer's monthly Service payment shall be in the amount set forth in the SOW ("Monthly Service Payment"). Applicable taxes will also be included in or added to the Monthly Service Payment. In the event that Company agrees to a Customer's request to connect Equipment on the Company's side of the billing meter, energy provided by such Equipment will be billed under the Customer's otherwise applicable general service rate schedule.

(b) Late Payment. Charges for Services due and rendered which are unpaid as of the past due date are subject to a Late Payment Charge of the greater of \$5.00 or 1.5% applied to any past due unpaid balance of all accounts. Further if the Customer fails to make any undisputed payment owed the Company hereunder within five (5) business days of receiving written notice from the Company that such payment is past due, Company may cease to supply Service under this Agreement until the Customer has paid the bills due. It is understood, however, that discontinuance of Service pursuant to the preceding sentence shall not constitute a breach of this Agreement by Company, nor shall it relieve the Customer of the obligation to comply with all payment obligations under this Agreement.

7. Customer Credit Requirements. In the reasonable discretion of Company to assure Customer payment of Monthly Service Payments, Company may request and Customer will be required to provide cash security, a surety bond or a bank letter of credit, in an amount as set forth in the SOW, prior to Company's procurement or installation of Equipment. Each Customer that provides a surety bond or a bank letter of credit must enter into the agreement(s) set forth in Sheet No. 9.440 of the Company's Electric Tariff for the surety bond and Sheet Nos. 9.430 and 9.435 of the Company's Electric Tariff for the bank letter of credit. Failure to provide the requested security in the manner set forth above within ninety (90) days of the date of this Agreement shall be a material breach of this Agreement unless such 90-day period is extended in writing by Company. Upon the end of the Term and after Company has received final payment for all bills, including any applicable Termination Fee pursuant to Section 13(a), for Service incurred under this Agreement, any cash security held by the Company under this Agreement will be refunded, and the obligors on any surety bond or letter of credit will be released from their obligations to the Company.

8. Right of Access. Customer hereby grants Company an access easement on the Residential Property sufficient to allow Company, in Company's sole discretion, to (i) laydown and stage the Equipment, tools, materials, other equipment and rigging and to park construction crew vehicles in connection with the installation or removal of the Equipment, (ii) inspect and provide maintenance to the Equipment; or (iii) provide any other service contemplated or necessary to perform under this Agreement. Furthermore, if any event creates an imminent risk of damage or injury to the Equipment, any person or person's property, Customer grants Company immediate unlimited access to the Residential Property to take such action as Company deems appropriate to prevent such damage or injury (collectively "Access").

9. Company Operation and Testing of Equipment. The Company shall have the exclusive right to manually and/or remotely operate the Equipment, and, except as expressly provided in the SOW, has the right to manually and/or remotely operate the Equipment at all times it deems appropriate, including, but not limited to, for the purpose of testing the Equipment to verify that it will operate within required parameters.

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(Continued from Sheet No. 9.812)

- 10. Customer Responsibilities.** Except for an agreed upon Change (as defined in the SOW), the Customer shall not modify its electrical system at the Residential Property in a manner that exceeds the capacity of the Equipment. Company shall be entitled to rely on the accuracy and completeness of any information provided by the Customer related to the Residential Property. The Customer shall be obligated, at its sole expense, to keep the Residential Property free and clear of anything that may (i) impair the maintenance or removal of Equipment, (ii) impair the Company's operation of the Equipment pursuant to Section 9, or (iii) cause damage to the Equipment.
- 11. Permits and Regulatory Requirements.** Company shall be responsible for obtaining and for compliance with any license or permit required to be in Company's name to enable it to provide the Service. The Customer shall be responsible for obtaining and for compliance with any license, permits, and/or approvals from proper authorities required to be in Customer's name in order for the Customer to receive the Service. Each Party agrees to cooperate with the other Party and to assist the other Party in obtaining any required permit.
- 12. Title and Risk of Loss.**
- (a) Title. The Customer agrees that Equipment installed at the Residential Property is and will remain the sole property of Company unless and until such time as the Customer exercises any purchase option set forth in the Agreement and pays such applicable purchase price to Company. Company reserves the right to modify or upgrade Equipment as Company deems necessary, in its sole discretion, for the continued supply of the Service. Any modifications, upgrades, alterations, additions to the Equipment or replacement of the Equipment shall become part of the Equipment and shall be subject to the ownership provisions of this Section 12(a). The Parties agree that the Equipment is personal property of Company and not a fixture to the Residential Property and shall retain the legal status of personal property as defined under the applicable provisions of the Uniform Commercial Code. With respect to the Equipment, and to preserve the Company's title to, and rights in the Equipment, Company may file one or more precautionary UCC financing statements or fixture filings, as applicable, in such jurisdictions as Company deems appropriate. Furthermore, the Parties agree that Company has the right to record notice of its ownership rights in the Equipment in the public records of the county of the Residential Property.
- (b) Liens. Customer shall keep the Equipment free from any liens by third parties. Customer shall provide timely notice of Company's title and ownership of the Equipment to all persons that may come to have an interest in or lien upon the Residential Property.
- (c) Risk of Loss to Equipment (Customer Responsibility). **CUSTOMER SHALL BEAR ALL RISK OF LOSS OR DAMAGE OF ANY KIND WITH RESPECT TO ALL OR ANY PART OF THE EQUIPMENT LOCATED AT THE RESIDENTIAL PROPERTY TO THE EXTENT SUCH LOSS OR DAMAGE IS CAUSED BY THE ACTIONS, NEGLIGENCE, WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF CUSTOMER, ITS CONTRACTORS, AGENTS, INVITEES AND/OR GUESTS, AND IN THE EVENT THAT THE EQUIPMENT IS DAMAGED BY A FORCE MAJEURE EVENT OR BY THIRD PARTY CRIMINAL ACTS OR TORTIOUS CONDUCT, THE CUSTOMER SHALL BE LIABLE TO THE EXTENT SUCH DAMAGES ARE RECOVERABLE UNDER THE CUSTOMER'S INSURANCE AS REQUIRED TO BE PROVIDED BY SECTION 18(b) OR UNDER ANY OTHER AVAILABLE INSURANCE OF CUSTOMER (COLLECTIVELY A "CUSTOMER CASUALTY").** Any proceeds provided by such insurance for loss or damage to the Equipment shall be promptly paid to Company.

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- (d) Risk of Loss to Equipment (Company Responsibility). In the event the Equipment is damaged and is not a Customer Casualty, the Company will repair or replace the Equipment at Company's cost, or, in the event that Equipment is so severely damaged that substantial replacement is necessary, the Company may in its sole discretion either (i) terminate this Agreement for its convenience upon written notice to Customer, provided that Company will have the right to remove the Equipment at its cost within a reasonable period of time, and Customer will be obligated to pay any outstanding Monthly Service Payments and applicable taxes for Service provided to Customer up to and through the date the Equipment was damaged, or (ii) replace the Equipment and adjust the Monthly Service Payments to reflect the new in-place cost of the Equipment less the in-place cost of the replaced Equipment. For the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election.

13. Expiration or Termination of Agreement.

- (a) Early Termination for Convenience by Customer. Subject to the obligation of Customer to pay Company the Termination Fee (as defined below), the Customer has the right to terminate this Agreement for its convenience upon written notice to Company at least one-hundred eighty (180) days prior to the effective date of termination. The "Termination Fee" will be an amount equal to (i) any outstanding Monthly Service Payments and applicable taxes for Service provided to Customer prior to the effective date of termination, plus (ii) any unrecovered maintenance costs expended by Company prior to the effective date of termination, plus (iii) the unrecovered capital costs of the Equipment less any salvage value of Equipment removed by Company, plus (iv) any removal cost of any Equipment, minus (v) any payment security amounts recovered by the Company under Section 7 (Customer Credit Requirements). For the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election. Company will invoice Customer the Termination Fee, due and payable by Customer within thirty (30) days of the date of such invoice. Company's invoice may include an estimated salvage value of Equipment removed by Company. Company retains the right to invoice Customer based upon actual salvage value within one-hundred eighty (180) days of the date of Company's removal of Equipment.
- (b) Early Termination by Company for Convenience or by Company Due to Change in Law. The Company has the right to terminate this Agreement for its convenience upon written notice to Customer at least one-hundred eighty (180) days prior to the effective date of termination, or, in whole or in part, immediately upon written notice to Customer as a result of FPSC actions or change in applicable laws, rules, regulations, ordinances or applicable permits of any federal, state or local authority, or of any agency thereof, that have the effect of terminating, limiting or otherwise prohibiting Company's ability to provide the Service. Upon a termination for convenience by Company pursuant to this Section 13(b), Customer must choose to either: (i) Purchase the Equipment upon payment of (A) a transfer price mutually agreeable to Company and Customer, plus (B) Company's cost to reconfigure the Equipment to accept standard electric service from the Company, plus (C) any outstanding Monthly Service Payments and applicable taxes for Service provided to Customer prior to the effective date of termination, plus (D) any unrecovered maintenance costs expended by Company prior to the effective date of termination, minus (E) any cash security held by the Company under this Agreement; or (ii) Request that Company remove the Equipment, at Company's sole cost, within a reasonable time period, provided that, for the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election. If Customer and Company cannot reach agreement as to the transfer price of the Equipment within ninety (90) days of Company's notice of termination for convenience, Customer shall be deemed to have elected the request for Company to remove the Equipment.

(Continue on Sheet No. 9.815)

(Continued from Sheet No. 9.814)

- (c) **Early Termination of Agreement for Cause.** In addition to any other termination rights expressly set forth in this Agreement, Company and Customer, as applicable, may terminate this Agreement for cause upon any of the following events of default (each an “Event of Default”): (i) Customer fails to timely pay the Monthly Service Payment and fails to cure such deficiency within five (5) business days of written notice from the Company; (ii) Company materially breaches its obligations under the Agreement and such failure is not cured within thirty (30) days after written notice thereof by Customer; (iii) Customer fails to perform or observe any other covenant, term or condition under the Agreement and such failure is not cured within thirty (30) days after written notice thereof by Company; (iv) Subject to Section 20, Customer sells, transfers or otherwise disposes of the Residential Property; (v) Customer enters into any voluntary or involuntary bankruptcy or other insolvency or receivership proceeding, or makes an assignment for the benefit of creditors; (vi) any representation or warranty made by Customer or otherwise furnished to Company in connection with the Agreement shall prove at any time to have been untrue or misleading in any material respect; or (vii) Customer removes or allows a third party to remove, any portion of the Equipment from the Residential Property.
- i. Upon a termination for cause by Company, the Company shall have the right to access and remove the Equipment and Customer shall be responsible for paying the Termination Fee as more fully described in Section 13(a). For the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election. Additionally, the Customer shall be liable to Company for any attorney’s fees or other costs incurred in collection of the Termination Fee. In the event that Company and a purchaser of the Residential Property (who has not assumed the Agreement pursuant to Section 20) agree upon a purchase price of the Equipment, such purchase price shall be credited against the Termination Fee owed by Customer.
 - ii. Upon a termination for cause by Customer, Customer must choose to either (i) pursue the purchase option pursuant to Section 13(e), or (ii) request that Company remove the Equipment, at Company’s sole cost, within a reasonable time period, and pay no Termination Fee; provided that, for the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election.
- (d) **Expiration of Agreement.** At least ninety (90) days prior to the end of the Term, Customer shall provide Company with written notice of an election of one of the three following options: (i) to renew the Term of this Agreement, subject to modifications to be agreed to by Company and the Customer, for a period and price to be agreed upon between Company and the Customer, (ii) to purchase the Equipment by payment of the purchase option price set forth in Section 13(e) plus applicable taxes, plus any outstanding Monthly Service Payments and applicable taxes, for Service provided to Customer prior to the expiration of the Term, or (iii) to request that Company remove the Equipment and for Customer to pay Company the Termination Fee. In the event that Customer fails to make a timely election, Customer shall be deemed to have elected the request for Company to remove the Equipment and for Customer to pay the Termination Fee. For the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election. If options (i) or (ii) is selected by Customer but the Parties have failed to reach agreement as to the terms of the applicable option by the expiration of the then current Term, the Agreement will auto-renew on a month-to-month basis until (A) the date on which the Parties reach agreement and finalize the option, or (B) the date Customer provides written notice to Company to change its election to option (iii) above.

(Continue on Sheet No. 9.816)

(Continued from Sheet No. 9.815)

- (e) **Customer Purchase Option.** Pursuant to a purchase option under Section 13(c), Section 13(d), or Section 20, the Customer may elect to purchase and take title to the Equipment upon payment of (i) the greater of (A) Company's unrecovered capital cost of the Equipment, or (B) the mutually agreed upon fair market value of the Equipment, plus (ii) Company's cost to reconfigure the Equipment to accept standard electric service from the Company, plus (iii) any outstanding Monthly Service Payments and applicable taxes for Service provided to Customer prior to the effective date of termination, plus (iv) any unrecovered maintenance costs expended by Company prior to the effective date of termination, minus (v) any cash security held by the Company under this Agreement. Company will invoice Customer the purchase option price within thirty (30) days of Customer's election of the purchase option, due and payable by Customer within thirty (30) days of the date of such invoice. If Customer and Company cannot reach agreement as to the fair market value of the Equipment within thirty (30) days of Customer's election of the purchase option, then such purchase option will expire and Customer must proceed subject to and pay the Termination Fee pursuant to Section 13(a).

14. Warranty and Representations.

- (a) **Company's Disclaimer of Express and/or Implied Warranties.** CUSTOMER ACKNOWLEDGES AND AGREES THAT COMPANY HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO THE COMPANY'S OBLIGATIONS, SERVICES AND/OR THE EQUIPMENT. CUSTOMER ACKNOWLEDGES THAT THERE IS NO WARRANTY IMPLIED BY LAW, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND THE IMPLIED WARRANTY OF CUSTOM OR USAGE. CUSTOMER FURTHER ACKNOWLEDGES IN NO EVENT DOES COMPANY WARRANT AND/OR GUARANTY TO THE CUSTOMER THAT THE ELECTRICAL SERVICES TO THE RESIDENTIAL PROPERTY WILL BE UNINTERRUPTED OR THAT THE INSTALLATION OF THE EQUIPMENT AND PROVISION OF SERVICES PROVIDED HEREUNDER WILL AVERT OR PREVENT THE INTERRUPTION OF ELECTRIC SERVICES.
- (b) **Customer Representations and Warranties.** The Customer represents and warrants that (i) the Residential Property at which Company's Equipment is to be located is suitable for the location of such Equipment; (ii) the placing of such Equipment at such Residential Property will comply with all laws, rules, regulations, ordinances, zoning requirements or any other federal, state and local governmental requirements applicable to Customer; (iii) all information provided by the Customer related to the Residential Property is accurate and complete; and (iv) Customer holds sole and exclusive title to the Residential Property or has the sole and exclusive right of possession of the Residential Property for the Term.

15. LIMITATIONS OF LIABILITY.

- (a) **IT IS UNDERSTOOD AND ACKNOWLEDGED BY CUSTOMER THAT COMPANY IS NOT AN INSURER OF LOSSES OR DAMAGES THAT MIGHT ARISE OR RESULT FROM THE EQUIPMENT NOT OPERATING AS EXPECTED. BY SIGNING THIS AGREEMENT, CUSTOMER ACKNOWLEDGES AND AGREES THAT COMPANY SHALL NOT BE LIABLE TO THE CUSTOMER FOR COMPLETE OR PARTIAL INTERRUPTION OF SERVICE, OR FLUCTUATION IN VOLTAGE, RESULTING FROM CAUSES BEYOND ITS CONTROL OR THROUGH THE ORDINARY NEGLIGENCE OF ITS EMPLOYEES, SERVANTS OR AGENTS.**

(Continue on Sheet No. 9.817)

(Continued from Sheet No. 9.816)

- (b) **SUBJECT TO SECTION 15(c), NEITHER COMPANY NOR CUSTOMER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT OR INCIDENTAL LOSSES OR PUNITIVE DAMAGES UNDER THE AGREEMENT, INCLUDING LOSS OF USE, COST OF CAPITAL, LOSS OF GOODWILL, LOST REVENUES OR LOSS OF PROFIT, AND COMPANY AND CUSTOMER EACH HEREBY RELEASES THE OTHER FROM ANY SUCH LIABILITY.**
- (c) **THE LIMITATIONS OF LIABILITY UNDER SECTION 15(a) AND SECTION 15(b) ABOVE SHALL NOT BE CONSTRUED TO LIMIT ANY INDEMNITY OR DEFENSE OBLIGATION OF CUSTOMER UNDER SECTION 18(c). Customer's initials below indicate that Customer has read, understood and voluntarily accepted the terms and provisions set forth in Section 15.**

Agreed and accepted by Customer: _____ (Initials)

- 16. Force Majeure.** Force Majeure is defined as an event or circumstance that is not reasonably foreseeable, is beyond the reasonable control of and is not caused by the negligence or lack of due diligence of the affected Party or its contractors or suppliers. Such events or circumstances may include, but are not limited to, actions or inactions of civil or military authority (including courts and governmental or administrative agencies), acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, explosions and fires not originating in the Residential Property or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes or difficulties (not caused by the failure of the affected Party to comply with the terms of a collective bargaining agreement). If a Party is prevented or delayed in the performance of any such obligation by a Force Majeure event, such Party shall provide notice to the other Party of the circumstances preventing or delaying performance and the expected duration thereof. The Party so affected by a Force Majeure event shall endeavor, to the extent reasonable, to remove the obstacles which prevent performance and shall resume performance of its obligations as soon as reasonably practicable. Provided that the requirements of this Section 16 are satisfied by the affected Party, to the extent that performance of any obligation(s) is prevented or delayed by a Force Majeure event, the obligation(s) of the affected Party that is obstructed or delayed shall be extended by the time period equal to the duration of the Force Majeure event. Notwithstanding the foregoing, the occurrence of a Force Majeure event shall not relieve Customer of payment obligations under this Agreement.
- 17. Confidentiality.** "Confidential Information" shall mean all nonpublic information, regardless of the form in which it is communicated or maintained (whether oral, written, electronic or visual) and whether prepared by Company or otherwise, which is disclosed to Customer. Confidential Information shall not be used for any purpose other than for purposes of this Agreement and shall not be disclosed without the prior written consent of Company.
- 18. Insurance and Indemnity.**
- (a) Insurance to Be Maintained by the Company. At any time that the Company is performing Services under this Agreement at the Customer Residential Property, the Company shall, maintain, at its sole cost and expense, liability insurance as required by law, including workers' compensation insurance mandated by the applicable laws of the State of Florida. Company may meet the above required insurance coverage with any combination of primary, excess, or self-insurance.
- (b) Insurance to Be Maintained by the Customer. During and throughout the Term of this Agreement and until all amounts payable to the Company pursuant to this Agreement are paid in full, the Customer shall maintain a homeowner's property insurance policy with minimum limits equal to the value of the Residential Property and homeowner's liability insurance policy with minimum limits of Three Hundred Thousand (\$300,000.00) Dollars.

(Continue on Sheet No. 9.818)

(Continued from Sheet No. 9.817)

- (c) **Indemnity.** The Customer shall indemnify, hold harmless and defend Company from and against any and all liability, proceedings, suits, cost or expense for loss, damage or injury to persons or property (“Losses”) to the extent arising out of, connected with, relating to or in any manner directly or indirectly connected with this Agreement; provided, that nothing herein shall require Customer to indemnify Company for Losses caused by Company’s own negligence, gross negligence or willful misconduct. The provisions of this paragraph shall survive termination or expiration of this Agreement.
19. **Non-Waiver.** The failure of either Party to insist upon the performance of any term or condition of this Agreement or to exercise any right hereunder on one or more occasions shall not constitute a waiver or relinquishment of its right to demand future performance of such term or condition, or to exercise such right in the future.
20. **Assignment.** Neither this Agreement, nor the Service, nor any duty, interest or rights hereunder shall be subcontracted, assigned, transferred, delegated or otherwise disposed of by Customer without Company’s prior written approval. Customer will provide written notice to Company of a prospective sale of the real property upon which the Equipment is installed, at least thirty (30) days prior to the sale of such property. In the event of the sale of the real property upon which the Equipment is installed, subject to the obligations of this Agreement including Section 7 (Customer Credit Requirements), the Customer has the option to purchase the Equipment pursuant to Section 13(e) or this Agreement may be assigned by the Customer to the purchaser if such obligations have been assumed by the purchaser and agreed to by the Customer and the Company in writing. This Agreement shall inure to the benefit of, and be binding upon the successors and assigns of the Customer and Company. This Agreement is free of any restrictions that would prevent the Customer from freely transferring the Residential Property. Company will not prohibit the sale, conveyance or refinancing of the Residential Property. Company may choose to file in the real estate records one or more precautionary UCC financing statements or fixture filings (collectively “Fixture Filing”) that preserves their rights in the Equipment. The Fixture Filing is intended only to give notice of its rights relating to the Equipment and is not a lien or encumbrance against the Residential Property. Company shall explain the Fixture Filing to any subsequent purchasers of the Residential Property and any related lenders as requested. Company shall also accommodate reasonable requests from lenders or title companies to facilitate a purchase, financing or refinancing of the Residential Property.
21. **Dispute Resolution, Governing Law, Venue and Waiver of Jury Trial.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida, exclusive of conflicts of laws provisions. Each Party agrees not to commence or file any formal proceedings against the other Party related to any dispute under this Agreement for at least forty-five (45) days after notifying the other Party in writing of the dispute. A court of competent jurisdiction in the Circuit Court for Palm Beach County, Florida or the United States District Court for the Southern District of Florida only, as may be applicable under controlling law, shall decide any unresolved claim or other matter in question between the Parties to this Agreement arising out of or related in any way to this Agreement, with such court having sole and exclusive jurisdiction over any such matters. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS THAT MIGHT EXIST TO HAVE A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED UPON, RELATING TO, ARISING OUT OF, UNDER OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF EITHER PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.
22. **Modification.** No statements or agreements, oral or written, made prior to the date hereof, shall vary or modify the written terms set forth herein and neither Party shall claim any amendment, modification or release from any provision hereof by reason of a course of action or mutual agreement unless such agreement is in writing, signed by both Parties and specifically states it is an amendment to this Agreement.

(Continue on Sheet No. 9.819)

(Continued from Sheet No. 9.818)

- 23. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 24. **Survival.** The obligations of the Parties hereunder which by their nature survive the termination or expiration of the Agreement and/or the completion of the Service hereunder, shall survive and inure to the benefit of the Parties. Those provisions of this Agreement which provide for the limitation of or protection against liability shall apply to the full extent permitted by law and shall survive termination or expiration of this Agreement and/or completion of the Service.
- 25. **Notices.** All notices, demands, offers or other written communications required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and, shall be either hand-delivered, sent via certified mail, return receipt requested and postage prepaid, or sent via overnight courier to such Party's address as set forth in the first paragraph of this Agreement and with respect to Company, sent to the attention of _____. Each Party shall have the right to change the place to which notices shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party.
- 26. **Further Assurances.** Company and Customer each agree to do such other and further acts and things, and to execute and deliver such additional instruments and documents, as either Party may reasonably request from time to time whether at or after the execution of this Agreement, in furtherance of the express provisions of this Agreement.
- 27. **Entire Agreement.** The Agreement constitutes the entire understanding between Company and the Customer relating to the subject matter hereof, superseding any prior or contemporaneous agreements, representations, warranties, promises or understandings between the Parties, whether oral, written or implied, regarding the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereby caused this Agreement to be executed by their duly authorized representatives, effective as of the Effective Date.

Customer

Florida Power & Light Company

By: _____
(Signature)

By: _____
(Signature of Authorized Representative)

(Print or Type Name)

(Print or Type Name)

Date: _____

Title: _____

Date: _____

Customer

By: _____
(Signature)

(Print or Type Name)

Date: _____

NON-RESIDENTIAL OPTIONAL SUPPLEMENTAL POWER SERVICES AGREEMENT

THIS Non-Residential Optional Supplemental Power Services Agreement (“Agreement”) is made and entered into this _____ day of _____, 20__ by and between _____, a _____, having its principal office at _____ (hereafter, the “Customer”) and Florida Power & Light Company, a Florida corporation, having offices at 700 Universe Boulevard, Juno Beach, Florida 33408 (hereafter “Company”) (each a “Party” and collectively the “Parties”). The Service (as defined in the paragraph below) provided under this Agreement is subject to the Rules and Orders of the Florida Public Service Commission (“FPSC”) and to Company’s Electric Tariff, including, but not limited to, the Optional Supplemental Power Services Rider, Rate Schedule OSP-1, as approved or subsequently revised by the FPSC (hereafter the “Rider”) and the General Rules and Regulations for Electric Service as they are now written, or as they may be hereafter revised, amended or supplemented (collectively, hereafter referred to as the “Electric Tariff”). In case of conflict between any provision of this Agreement and the Electric Tariff, this Agreement shall control. Capitalized terms not defined herein shall have the meaning set forth in the Electric Tariff.

WHEREAS, the Customer hereby applies to Company for receipt of service, as more specifically described in a Statement of Work (“SOW”) for the purpose of providing an alternative source of power supply and/or power conditioning service in the event Customer’s normal electric supply is disrupted (hereafter the “Service”), at the Customer facility located at _____ (hereafter the “Facility”).

NOW THEREFORE, in consideration of their mutual promises and undertakings, the Parties agree to the following terms and conditions in this Agreement:

1. **Effective Date.** This Agreement shall become effective upon the acceptance hereof by Company (“Effective Date”), evidenced by the signature of Company’s authorized representative appearing below, which, together with the Electric Tariff and the SOW, shall constitute the entire agreement between the Customer and Company with respect to provision of the Service.
2. **Term of Agreement.** The term of this Agreement will commence on the Effective Date and will continue for _____ years following the Commercial Operation Date as defined in Section 4(a) below (the “Term”).
3. **Scope of Services.** Company will design, procure, install, own, operate and provide maintenance to all alternative sources of power supply and/or power conditioning equipment (“Equipment”) to furnish the Service as more specifically described in the SOW. Customer acknowledges and agrees that (i) the Equipment will be removable and will not be a fixture or otherwise part of the Facility, (ii) Company will own the Equipment, and (iii) Customer has no ownership interest in the Equipment. For the avoidance of doubt, it is the Parties’ intent that this Agreement (i) is for the Company’s provision of Services to Customer using Company’s Equipment, and (ii) is not for the license, rental or lease of the Equipment by Company to Customer.
4. **Design and Installation.** Company will design, procure, and install the Equipment pursuant to the requirements of the SOW.
 - (a) **Commercial Operation.** Upon completion of the installation of the applicable Equipment in accordance with the requirements of the SOW, Company shall deliver to Customer a notice that the Equipment is ready for commercial operation, with the date of such notice being the “Commercial Operation Date”.
 - (b) **Commencement of Monthly Service Payment Upon Commercial Operation Date.** Customer’s obligation to pay the applicable Customer’s monthly Service payment, plus applicable fuel charges and taxes due from Customer pursuant to Section 6 (Customer Payments), shall begin on the Commercial Operation Date and shall be due and payable by Customer pursuant to the General Rules and Regulations for Electric Service.
5. **Equipment Maintenance; Alterations.** During the Term, Company shall provide maintenance to the applicable Equipment in accordance with generally accepted industry practices. Customer shall promptly notify Company when Customer has knowledge of any operational issues or damage related to the Equipment. Company shall inspect and repair Equipment that is not properly operating within the timelines agreed upon in the SOW. Company will invoice Customer for repairs that are the Customer’s financial responsibility under

(Continue on Sheet No. 9.821)

(Continued from Sheet No. 9.820)

Section 12(c), due and payable by Customer within thirty (30) days of the date of such invoice. The Customer shall not manually operate or test Equipment, move, modify, remove, adjust, alter or change in any material way the Equipment, or any part thereof, during the term of the Agreement, except in the event of an occurrence reasonably deemed by the Customer or Company to constitute a bona fide emergency. All replacements of, and alterations or additions to, the Equipment shall become part of the Equipment. In the event of a breach of this Section 5 by Customer, Company may, at its option and sole discretion, restore Equipment to its original condition at Customer's sole cost and expense.

6. Customer Payments.

(a) Fees. The Customer's monthly Service payment shall be in the amount set forth in the SOW ("Monthly Service Payment"). Any monthly fuel charges specified in the SOW will be in addition to the Monthly Service Payment. Monthly fuel charges, if applicable, will be recalculated annually by Company in accordance with the Rider, and such recalculated monthly fuel charges shall be effective upon written notice to Customer. Applicable taxes will also be included in or added to the Monthly Service Payment and any fuel charges. In the event that Company agrees to a Customer's request to connect Equipment on the Company's side of the billing meter, energy provided by such Equipment will be billed under the Customer's otherwise applicable general service rate schedule.

(b) Late Payment. Charges for Services due and rendered which are unpaid as of the past due date are subject to a Late Payment Charge of the greater of \$5.00 or 1.5% applied to any past due unpaid balance of all accounts, except the accounts of federal, state, and local governmental entities, agencies, and instrumentalities. A Late Payment Charge shall be applied to the accounts of federal, state, and local governmental entities, agencies, and instrumentalities at a rate no greater than allowed, and in a manner permitted, by applicable law. Further if the Customer fails to make any undisputed payment owed the Company hereunder within five (5) business days of receiving written notice from the Company that such payment is past due, Company may cease to supply Service under this Agreement until the Customer has paid the bills due. It is understood, however, that discontinuance of Service pursuant to the preceding sentence shall not constitute a breach of this Agreement by Company, nor shall it relieve the Customer of the obligation to comply with all payment obligations under this Agreement.

7. Customer Credit Requirements. At the discretion of the Company and subject to the confidentiality obligations set forth in this Agreement, Company may request and Customer shall provide Company with the most recent financial statements of each of the Customer and/or its parent company and with such other documents, instruments, agreements and other writings to determine the creditworthiness of Customer. The Company may also use debt ratings provided by the major credit rating agencies or consult other credit rating services to determine Customer creditworthiness. In the reasonable discretion of Company to assure Customer payment of Monthly Service Payments, Company may request and Customer will be required to provide cash security, a surety bond or a bank letter of credit, in an amount as set forth in the SOW, prior to Company's procurement or installation of Equipment. Each Customer that provides a surety bond or a bank letter of credit must enter into the agreement(s) set forth in Sheet No. 9.440 of the Company's Electric Tariff for the surety bond and Sheet Nos. 9.430 and 9.435 of the Company's Electric Tariff for the bank letter of credit. Failure to provide the requested security in the manner set forth above within ninety (90) days of the date of this Agreement shall be a material breach of this Agreement unless such 90-day period is extended in writing by Company. Upon the end of the Term and after Company has received final payment for all bills, including any applicable Termination Fee pursuant to Section 13(a), for Service incurred under this Agreement, any cash security held by the Company under this Agreement will be refunded, and the obligors on any surety bond or letter of credit will be released from their obligations to the Company.

(Continue on Sheet No. 9.822)

(Continued from Sheet No. 9.821)

8. **Grant of Easement to Company.** Customer hereby grants Company an access easement to the Facility sufficient to allow Company, in Company's sole discretion, to (i) laydown and stage the Equipment, tools, materials, other equipment and rigging and to park construction crew vehicles in connection with the installation or removal of the Equipment, (ii) inspect and provide maintenance to the Equipment; or (iii) provide any other service contemplated or necessary to perform under this Agreement. Furthermore, if any event creates an imminent risk of damage or injury to the Equipment, any person or person's property, Customer grants Company immediate unlimited access to the Facility to take such action as Company deems appropriate to prevent such damage or injury (collectively "Access"). Upon execution of this Agreement and the Parties agreement to the Equipment location, Company shall obtain a legal description of the necessary Access locations and provide Customer with an applicable easement form for Customer's approval and signature. The Customer must also obtain and provide mortgage subordinations, as necessary to protect the Company's right of Access. Upon receiving the signed easement form and any associated mortgage subordinations, the Company shall record Company's easement rights in the public records of the County where the Facility is located. All such costs related thereto shall be included as part of calculating the Customer's Monthly Service Payment. Failure to provide the above requested documents in the manner set forth above within ninety (90) days of the date of this Agreement shall be a material breach of this Agreement unless such 90-day period is extended in writing by Company. Customer agrees that it will not interfere with Company's right of access to the Facility as reasonably necessary for (i) Company's laydown and installation of the Equipment, (ii) Company's maintenance and/or removal of Equipment, and (iii) Company's performance of the Service.
9. **Company Operation and Testing of Equipment.** The Company shall have the exclusive right to manually and/or remotely operate the Equipment, and, except as expressly provided in the SOW, has the right to manually and/or remotely operate the Equipment at all times it deems appropriate, including, but not limited to, for the purpose of testing the Equipment to verify that it will operate within required parameters.
10. **Customer Responsibilities.** Except for an agreed upon Change (as defined in the SOW), the Customer shall not modify its electrical system at the Facility in a manner that exceeds the capacity of the Equipment. Company shall be entitled to rely on the accuracy and completeness of any information provided by the Customer related to the Facility. The Customer shall be obligated, at its sole expense, to keep the Facility free and clear of anything that may (i) impair the maintenance or removal of Equipment, (ii) impair the Company's operation of the Equipment pursuant to Section 9, or (iii) cause damage to the Equipment.
11. **Permits and Regulatory Requirements.** Company shall be responsible for obtaining and for compliance with any license or permit required to be in Company's name to enable it to provide the Service. The Customer shall be responsible for obtaining and for compliance with any license, permits, and/or approvals from proper authorities required to be in Customer's name in order for the Customer to receive the Service. Each Party agrees to cooperate with the other Party and to assist the other Party in obtaining any required permits.
12. **Title and Risk of Loss.**
 - (a) **Title.** The Customer agrees that Equipment installed at the Facility is and will remain the sole property of Company unless and until such time as the Customer exercises any purchase option set forth in the Agreement and pays such applicable purchase price to Company. Company reserves the right to modify or upgrade Equipment as Company deems necessary, in its sole discretion, for the continued supply of the Service. Any modifications, upgrades, alterations, additions to the Equipment or replacement of the Equipment shall become part of the Equipment and shall be subject to the ownership provisions of this Section 12(a). The Parties agree that the Equipment is personal property of Company and not a fixture to the Facility and shall retain the legal status of personal property as defined under the applicable provisions of the Uniform Commercial Code. With respect to the Equipment, and to preserve the Company's title to, and rights in the Equipment, Company may file one or more precautionary UCC financing statements or fixture filings, as applicable, in such jurisdictions, as Company deems appropriate. Furthermore, the Parties agree that Company has the

(Continue on Sheet No. 9.823)

(Continued from Sheet No. 9.822)

right to record notice of its ownership rights in the Equipment in the public records of the county of the Facility.

- (b) Liens. Customer shall keep the Equipment free from any liens by third parties. Customer shall provide timely notice of Company's title and ownership of the Equipment to all persons that may come to have an interest in or lien upon the Facility.
- (c) Risk of Loss to Equipment (Customer Responsibility). **CUSTOMER SHALL BEAR ALL RISK OF LOSS OR DAMAGE OF ANY KIND WITH RESPECT TO ALL OR ANY PART OF THE EQUIPMENT LOCATED AT THE FACILITY TO THE EXTENT SUCH LOSS OR DAMAGE IS CAUSED BY THE ACTIONS, NEGLIGENCE, WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF CUSTOMER, ITS EMPLOYEES, CONTRACTORS, AGENTS, INVITEES AND/OR GUESTS, AND IN THE EVENT THAT THE EQUIPMENT IS DAMAGED BY A FORCE MAJEURE EVENT OR BY THIRD PARTY CRIMINAL ACTS OR TORTIOUS CONDUCT, THE CUSTOMER SHALL BE LIABLE TO THE EXTENT SUCH DAMAGES ARE RECOVERABLE UNDER THE CUSTOMER'S INSURANCE AS REQUIRED TO BE PROVIDED BY SECTION 18(b) OR UNDER ANY OTHER AVAILABLE INSURANCE OF CUSTOMER (COLLECTIVELY, A "CUSTOMER CASUALTY").** Any proceeds provided by such insurance for loss or damage to the Equipment shall be promptly paid to Company.
- (d) Risk of Loss to Equipment (Company Responsibility). In the event the Equipment is damaged and is not a Customer Casualty, the Company will repair or replace the Equipment at Company's cost, or, in the event that Equipment is so severely damaged that substantial replacement is necessary, the Company may in its sole discretion either (i) terminate this Agreement for its convenience upon written notice to Customer, provided that Company will have the right to remove the Equipment at its cost within a reasonable period of time, and Customer will be obligated to pay any outstanding Monthly Service Payments, fuel charges and applicable taxes for Service provided to Customer up to and through the date the Equipment was damaged, or (ii) replace the Equipment and adjust the Monthly Service Payments to reflect the new in-place cost of the Equipment less the in-place cost of the replaced Equipment. For the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election.

13. Expiration or Termination of Agreement.

- (a) Early Termination for Convenience by Customer. Subject to the obligation of Customer to pay Company the Termination Fee (as defined below), the Customer has the right to terminate this Agreement for its convenience upon written notice to Company at least one-hundred eighty (180) days prior to the effective date of termination. The "Termination Fee" will be an amount equal to (i) any outstanding Monthly Service Payments, fuel charges and applicable taxes for Service provided to Customer prior to the effective date of termination, plus (ii) any unrecovered fuel and maintenance costs expended by Company prior to the effective date of termination, plus (iii) the unrecovered capital costs of the Equipment less any salvage value of Equipment removed by Company, plus (iv) any removal cost of any Equipment, minus (v) any payment security amounts recovered by the Company under Section 7 (Customer Credit Requirements). For the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election. Company will invoice Customer the Termination Fee, due and payable by Customer within thirty (30) days of the date of such invoice. Company's invoice may include an estimated salvage value of Equipment removed by Company. Company retains the right to invoice Customer based upon actual salvage value within one-hundred eighty (180) days of the date of the Company's removal of Equipment.

(Continue on Sheet No. 9.824)

(Continued from Sheet No. 9.823)

- (b) **Early Termination by Company for Convenience or by Company Due to Change in Law.** The Company has the right to terminate this Agreement for its convenience upon written notice to Customer at least one-hundred eighty (180) days prior to the effective date of termination, or, in whole or in part, immediately upon written notice to Customer as a result of FPSC actions or change in applicable laws, rules, regulations, ordinances or applicable permits of any federal, state or local authority, or of any agency thereof, that have the effect of terminating, limiting or otherwise prohibiting Company's ability to provide the Service. Upon a termination for convenience by Company pursuant to this Section 13(b), Customer must choose to either: (i) Purchase the Equipment upon payment of (A) a transfer price mutually agreeable to Company and Customer, plus (B) Company's cost to reconfigure the Equipment to accept standard electric service from the Company, plus (C) any outstanding Monthly Service Payments, fuel charges and applicable taxes for Service provided to Customer prior to the effective date of termination, plus (D) any unrecovered fuel and maintenance costs expended by Company prior to the effective date of termination, minus (E) any cash security held by the Company under this Agreement; or (ii) Request that Company remove the Equipment, at Company's sole cost, within a reasonable time period, provided that, for the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election. If Customer and Company cannot reach agreement as to the transfer price of the Equipment within ninety (90) days of Company's notice of termination for convenience, Customer shall be deemed to have elected the request for Company to remove the Equipment.
- (c) **Early Termination of Agreement for Cause.** In addition to any other termination rights expressly set forth in this Agreement, Company and Customer, as applicable, may terminate this Agreement for cause upon any of the following events of default (each an "Event of Default"): (i) Customer fails to timely pay the Monthly Service Payment and fails to cure such deficiency within five (5) business days of written notice from the Company; (ii) Company materially breaches its obligations under the Agreement and such failure is not cured within thirty (30) days after written notice thereof by Customer; (iii) Customer fails to perform or observe any other covenant, term or condition under the Agreement and such failure is not cured within thirty (30) days after written notice thereof by Company; (iv) Subject to Section 20, Customer sells, transfers or otherwise disposes of the Facility; (v) Customer or any guarantor of Customer's obligations or liabilities hereunder ("Guarantor") sells, transfers or otherwise dispose of all or substantially all of its assets; (vi) Customer or Guarantor enters into any voluntary or involuntary bankruptcy or other insolvency or receivership proceeding, or makes as assignment for the benefit of creditors; (vii) any representation or warranty made by Customer or Guarantor or otherwise furnished to Company in connection with the Agreement shall prove at any time to have been untrue or misleading in any material respect; or (viii) Customer removes or allows a third party to remove, any portion of the Equipment from the Facility.
- i. Upon a termination for cause by Company, the Company shall have the right to access and remove the Equipment and Customer shall be responsible for paying the Termination Fee as more fully described in Section 13(a). For the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election. Additionally, the Customer shall be liable to Company for any attorney's fees or other costs incurred in collection of the Termination Fee. In the event that Company and a purchaser of the Facility (who has not assumed the Agreement pursuant to Section 20) agree upon a purchase price of the Equipment, such purchase price shall be credited against the Termination Fee owed by Customer.

(Continue on Sheet No. 9.825)

(Continued from Sheet No. 9.824)

- ii. Upon a termination for cause by Customer, Customer must choose to either (i) pursue the purchase option pursuant to Section 13(e), or (ii) request that Company remove the Equipment, at Company's sole cost, within a reasonable time period, and pay no Termination Fee; provided that, for the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election.
- (d) **Expiration of Agreement.** At least ninety (90) days prior to the end of the Term, Customer shall provide Company with written notice of an election of one of the three following options: (i) to renew the Term of this Agreement, subject to modifications to be agreed to by Company and the Customer, for a period and price to be agreed upon between Company and the Customer, (ii) to purchase the Equipment by payment of the purchase option price set forth in Section 13(e) plus applicable taxes, plus any outstanding Monthly Service Payments, fuel charges and applicable taxes, for Service provided to Customer prior to the expiration of the Term, or (iii) to request that Company remove the Equipment and for Customer to pay Company the Termination Fee. In the event that Customer fails to make a timely election, Customer shall be deemed to have elected the request for Company to remove the Equipment and for Customer to pay the Termination Fee. For the avoidance of doubt, Company has the right, but not the obligation, to access and remove any and all Equipment, at its sole discretion. Title to Equipment that Company elects not to remove shall transfer to Customer upon written notice by Company to Customer of such an election. If options (i) or (ii) is selected by Customer but the Parties have failed to reach agreement as to the terms of the applicable option by the expiration of the then current Term, the Agreement will auto-renew on a month-to-month basis until (A) the date on which the Parties reach agreement and finalize the option, or (B) the date Customer provides written notice to Company to change its election to option (iii) above.
- (e) **Customer Purchase Option.** Pursuant to a purchase option under Section 13(c), Section 13(d), or Section 20, the Customer may elect to purchase and take title to the Equipment upon payment of (i) the greater of (A) Company's unrecovered capital cost of the Equipment, or (B) the mutually agreed upon fair market value of the Equipment, plus (ii) Company's cost to reconfigure the Equipment to accept standard electric service from the Company, plus (iii) any outstanding Monthly Service Payments, fuel charges and applicable taxes for Service provided to Customer prior to the effective date of termination, plus (iv) any unrecovered fuel and maintenance costs expended by Company prior to the effective date of termination; minus (v) any cash security held by the Company under this Agreement. Company will invoice Customer the purchase option price within thirty (30) days of Customer's election of the purchase option, due and payable by Customer within thirty (30) days of the date of such invoice. If Customer and Company cannot reach agreement as to the fair market value of the Equipment within thirty (30) days of Customer's election of the purchase option, then such purchase option will expire and Customer must proceed subject to and pay the Termination Fee pursuant to Section 13(a).
- (f) **Termination of Easements.** Following expiration or termination of this Agreement and satisfaction of all Customer obligations under this Section 13, Company shall provide Customer with a release of Easements in a form mutually agreed upon between the Parties.

(Continue on Sheet No. 9.826)

(Continued from Sheet No. 9.825)

14. Warranty and Representations.

- (a) Company's Disclaimer of Express and/or Implied Warranties. CUSTOMER ACKNOWLEDGES AND AGREES THAT COMPANY HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO THE COMPANY'S OBLIGATIONS, SERVICES AND/OR THE EQUIPMENT. CUSTOMER ACKNOWLEDGES THAT THERE IS NO WARRANTY IMPLIED BY LAW, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND THE IMPLIED WARRANTY OF CUSTOM OR USAGE. CUSTOMER FURTHER ACKNOWLEDGES IN NO EVENT DOES COMPANY WARRANT AND/OR GUARANTY TO THE CUSTOMER THAT THE ELECTRICAL SERVICES TO THE FACILITY WILL BE UNINTERRUPTED OR THAT THE INSTALLATION OF THE EQUIPMENT AND PROVISION OF SERVICES PROVIDED HEREUNDER WILL AVERT OR PREVENT THE INTERRUPTION OF ELECTRIC SERVICES.
- (b) Customer Representations and Warranties. The Customer represents and warrants that (i) the Facility at which Company's Equipment is to be located is suitable for the location of such Equipment; (ii) the placing of such Equipment at such Facility will comply with all laws, rules, regulations, ordinances, zoning requirements or any other federal, state and local governmental requirements applicable to Customer; (iii) all information provided by the Customer related to the Facility is accurate and complete; (iv) Customer holds title to the real property on which the Facility is located or has the right of possession of the real property on which the Facility is located for the Term; and (v) Customer has the right to grant Company easement rights related to the real property on which the Facility is located, or has the right to require the owner of the real property on which the Facility is located to grant Company such easement rights.

15. LIMITATIONS OF LIABILITY.

- (a) IT IS UNDERSTOOD AND ACKNOWLEDGED BY CUSTOMER THAT COMPANY IS NOT AN INSURER OF LOSSES OR DAMAGES THAT MIGHT ARISE OR RESULT FROM THE EQUIPMENT NOT OPERATING AS EXPECTED. BY SIGNING THIS AGREEMENT, CUSTOMER ACKNOWLEDGES AND AGREES THAT COMPANY SHALL NOT BE LIABLE TO THE CUSTOMER FOR COMPLETE OR PARTIAL INTERRUPTION OF SERVICE, OR FLUCTUATION IN VOLTAGE, RESULTING FROM CAUSES BEYOND ITS CONTROL OR THROUGH THE ORDINARY NEGLIGENCE OF ITS EMPLOYEES, SERVANTS OR AGENTS.
- (b) SUBJECT TO SECTION 15(c), NEITHER COMPANY NOR CUSTOMER SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, SPECIAL, EXEMPLARY, INDIRECT OR INCIDENTAL LOSSES OR PUNITIVE DAMAGES UNDER THE AGREEMENT, INCLUDING LOSS OF USE, COST OF CAPITAL, LOSS OF GOODWILL, LOST REVENUES OR LOSS OF PROFIT, AND COMPANY AND CUSTOMER EACH HEREBY RELEASES THE OTHER FROM ANY SUCH LIABILITY.
- (c) THE LIMITATIONS OF LIABILITY UNDER SECTION 15(a) AND SECTION 15(b) ABOVE SHALL NOT BE CONSTRUED TO LIMIT ANY INDEMNITY OR DEFENSE OBLIGATION OF CUSTOMER UNDER SECTION 18(c).

Customer's initials below indicate that Customer has read, understood and voluntarily accepted the terms and provisions set forth in Section 15.

Agreed and accepted by Customer: _____ (Initials)

(Continue on Sheet No. 9.827)

(Continued from Sheet No. 9.826)

- 16. Force Majeure.** Force Majeure is defined as an event or circumstance that is not reasonably foreseeable, is beyond the reasonable control of and is not caused by the negligence or lack of due diligence of the affected Party or its contractors or suppliers. Such events or circumstances may include, but are not limited to, actions or inactions of civil or military authority (including courts and governmental or administrative agencies), acts of God, war, riot or insurrection, blockades, embargoes, sabotage, epidemics, explosions and fires not originating in the Facility or caused by its operation, hurricanes, floods, strikes, lockouts or other labor disputes or difficulties (not caused by the failure of the affected Party to comply with the terms of a collective bargaining agreement). If a Party is prevented or delayed in the performance of any such obligation by a Force Majeure event, such Party shall provide notice to the other Party of the circumstances preventing or delaying performance and the expected duration thereof. The Party so affected by a Force Majeure event shall endeavor, to the extent reasonable, to remove the obstacles which prevent performance and shall resume performance of its obligations as soon as reasonably practicable. Provided that the requirements of this Section 16 are satisfied by the affected Party, to the extent that performance of any obligation(s) is prevented or delayed by a Force Majeure event, the obligation(s) of the affected Party that is obstructed or delayed shall be extended by the time period equal to the duration of the Force Majeure event. Notwithstanding the foregoing, the occurrence of a Force Majeure event shall not relieve Customer of payment obligations under this Agreement.
- 17. Confidentiality.** “Confidential Information” shall mean all nonpublic information, regardless of the form in which it is communicated or maintained (whether oral, written, electronic or visual) and whether prepared by a disclosing Party or otherwise (“Disclosing Party”), which is disclosed to a receiving Party (“Receiving Party”). Confidential Information shall not be used for any purpose other than for purposes of this Agreement. The Receiving Party shall use the same degree of care to protect the Confidential Information as the Receiving Party employs to protect its own information of like importance, but in no event less than a reasonable degree of care based on industry standard. Except to the extent required by applicable law, Customer shall not make any public statements that reference the name of Company or its affiliates without the prior written consent of Company.
- 18. Insurance and Indemnity.**
- (a) Insurance to Be Maintained by the Company.
- i. At any time that the Company is performing Services under this Agreement at the Customer Facility, the Company shall, maintain, at its sole cost and expense, with insurer(s) rated “A-, VII” or higher by A.M. Best’s Key Rating Guide, (i) commercial general liability policy with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence for bodily injury or death and/or property damage, (ii) automobile liability policy with minimum limits of One Million (\$1,000,000.00) Dollars combined single limit for all owned, non-owned, leased and hired automobiles, (iii) umbrella liability policy with minimum limits of Two Million (\$2,000,000.00) Dollars per occurrence, and (iv) workers’ compensation insurance coverage as mandated by the applicable laws of the State of Florida and Employers’ Liability cover with limits of One Million (\$1,000,000.00) Dollars per accident, by disease and per policy and per employee.
 - ii. Upon the request of Customer, the Company shall provide the Customer with insurance certificates which provide evidence of the insurance coverage under this Agreement.
 - iii. Notwithstanding any other requirement set forth in this Section 18(a), Company may meet the above required insurance coverage and limits with any combination of primary, excess, or self-insurance. In the event Company self-insures any of the above required coverages, Company will provide Customer with a letter of self-insurance upon written request by Customer.

(Continue on Sheet No. 9.828)

(Continued from Sheet No. 9.827)

(b) Insurance to Be Maintained by the Customer.

- i. The Customer, during and throughout the Term of this Agreement, shall, maintain, at its sole cost and expense, with insurer(s) rated "A-, VII" or higher by A.M. Best's Key Rating Guide, (i) commercial general liability policy with minimum limits of One Million (\$1,000,000.00) Dollars per occurrence for bodily injury or death and/or property damage, (ii) automobile liability policy with minimum limits of One Million (\$1,000,000.00) Dollars combined single limit for all owned, non-owned, leased and hired automobiles, (iii) umbrella liability policy with minimum limits of Two Million (\$2,000,000.00) Dollars per occurrence, and (iv) workers' compensation insurance coverage as mandated by the applicable laws of the State of Florida and Employers' Liability cover with limits of One Million (\$1,000,000.00) Dollars per accident, by disease and per policy and per employee. With respect to insurance required in (i), (ii), and (iii) above, Customer shall name Company as an additional insured and provide a waiver of subrogation in favor of Company.
- ii. In the event Customer is subject to Section 728.28 Florida Statute, Customer acknowledges, without waiving the right to sovereign immunity as provided by Section 768.28, Florida Statutes, that Customer is self-insured for general liability under Florida sovereign immunity statutes with coverage limits of Two Hundred Thousand (\$200,000.00) Dollars per person and Three Hundred Thousand (\$300,000.00) Dollars per occurrence, or such monetary waiver limits that may change and be set forth by the legislature. Customer shall also maintain workers' compensation insurance in accordance with Chapter 440, Florida Statute. Coverage shall also include Employers' Liability coverage with limits of One Million (\$1,000,000.00) Dollars per accident.

(c) Indemnity. The Customer shall indemnify, hold harmless and defend Company from and against any and all liability, proceedings, suits, cost or expense for loss, damage or injury to persons or property ("Losses") to the extent arising out of, connected with, relating to or in any manner directly or indirectly connected with this Agreement; provided, that nothing herein shall require Customer to indemnify Company for Losses caused by Company's own negligence, gross negligence or willful misconduct. The provisions of this paragraph shall survive termination or expiration of this Agreement.

19. Non-Waiver. The failure of either Party to insist upon the performance of any term or condition of this Agreement or to exercise any right hereunder on one or more occasions shall not constitute a waiver or relinquishment of its right to demand future performance of such term or condition, or to exercise such right in the future.

20. Assignment. Neither this Agreement, nor the Service, nor any duty, interest or rights hereunder shall be subcontracted, assigned, transferred, delegated or otherwise disposed of by Customer without Company's prior written approval. Customer will provide written notice to Company of a prospective sale of the real property upon which the Equipment is installed, at least thirty (30) days prior to the sale of such property. In the event of the sale of the real property upon which the Equipment is installed, subject to the obligations of this Agreement including Section 7 (Customer Credit Requirements), the Customer has the option to purchase the Equipment pursuant to Section 13(e) or, this Agreement may be assigned by the Customer to the purchaser if such obligations have been assumed by the purchaser and agreed to by the Customer and the Company in writing. This Agreement shall inure to the benefit of, and be binding upon the successors and assigns of the Customer and Company.

(Continue on Sheet No. 9.829)

(Continued from Sheet No. 9.828)

21. **Dispute Resolution, Governing Law, Venue and Waiver of Jury Trial.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Florida, exclusive of conflicts of laws provisions. Each Party agrees not to commence or file any formal proceedings against the other Party related to any dispute under this Agreement for at least forty-five (45) days after notifying the other Party in writing of the dispute. A court of competent jurisdiction in the Circuit Court for Palm Beach County, Florida or the United States District Court for the Southern District of Florida only, as may be applicable under controlling law, shall decide any unresolved claim or other matter in question between the Parties to this Agreement arising out of or related in any way to this Agreement, with such court having sole and exclusive jurisdiction over any such matters. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS THAT MIGHT EXIST TO HAVE A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED UPON, RELATING TO, ARISING OUT OF, UNDER OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF EITHER PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.
22. **Modification.** No statements or agreements, oral or written, made prior to the date hereof, shall vary or modify the written terms set forth herein and neither Party shall claim any amendment, modification or release from any provision hereof by reason of a course of action or mutual agreement unless such agreement is in writing, signed by both Parties and specifically states it is an amendment to this Agreement.
23. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
24. **Survival.** The obligations of the Parties hereunder which by their nature survive the termination or expiration of the Agreement and/or the completion of the Service hereunder, shall survive and inure to the benefit of the Parties. Those provisions of this Agreement which provide for the limitation of or protection against liability shall apply to the full extent permitted by law and shall survive termination or expiration of this Agreement and/or completion of the Service.
25. **Notices.** All notices, demands, offers or other written communications required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and, shall be either hand-delivered, sent via certified mail, return receipt requested and postage prepaid, or sent via overnight courier to such Party's address as set forth in the first paragraph of this Agreement, and with respect to Company, sent to the attention of _____. Each Party shall have the right to change the place to which notices shall be sent or delivered or to specify additional addresses to which copies of notices may be sent, in either case by similar notice sent or delivered in like manner to the other Party.
26. **Further Assurances.** Company and Customer each agree to do such other and further acts and things, and to execute and deliver such additional instruments and documents, as either Party may reasonably request from time to time whether at or after the execution of this Agreement, in furtherance of the express provisions of this Agreement.
27. **Governmental Entities.** For those Customers which are a governmental entity of the State of Florida or political subdivision thereof ("Governmental Entity"), to the extent the Governmental Entity is legally barred by Florida state or federal law from executing or agreeing to any provision of this Agreement, then such provision of this Agreement will be deemed modified to the extent necessary to make such provisions consistent with Florida state or federal law. The remainder of this Agreement shall not be affected thereby and will survive and be enforceable.

(Continue on Sheet No. 9.830)

(Continued from Sheet No. 9.829)

28. **Entire Agreement.** The Agreement constitutes the entire understanding between Company and the Customer relating to the subject matter hereof, superseding any prior or contemporaneous agreements, representations, warranties, promises or understandings between the Parties, whether oral, written or implied, regarding the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereby caused this Agreement to be executed by their duly authorized representatives, effective as of the Effective Date.

Customer

Florida Power & Light Company

By: _____
(Signature of Authorized Representative)

By: _____
(Signature of Authorized Representative)

(Print or Type Name)

(Print or Type Name)

Title: _____

Title: _____

Date: _____

Date: _____

RESERVED FOR FUTURE USE

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**Existing Facility Economic Development Rider - EFEDR
Service Agreement**

New Load established in Commercial or Industrial space that has been vacant for more than six months

CUSTOMER NAME _____

ADDRESS _____

TYPE OF BUSINESS _____

The Customer hereto agrees as follows:

1. Establish service in a currently vacant building or other facility and create additional load of at least 350 kW of measured demand with _____ full-time jobs.
2. That the quantity of new or expanded load shall be _____ kW of Demand.
3. The nature of this new or expanded load is _____.
4. The commercial/industrial space of the new load has been vacant for more than six months.
5. That the customer load will be served with existing facilities or that customer has paid, or agrees to pay, any contributions in aid of construction or guarantees for any additional facilities that may be required.
6. To initiate service under this Rider on _____, _____, and terminate service under this Rider on _____, _____. This shall constitute a period of five years.
7. To provide verification that the availability for this Rider is a significant factor in the Customer's location/expansion decision.
8. If a change in ownership occurs after the Customer contracts for service under this Rider, the successor Customer may be allowed to fulfill the balance of the contract under Rider EFEDR and continue the schedule of credits.
9. To provide verification that there is no affiliation with the prior occupant.

Signed: _____

Accepted by: _____
FLORIDA POWER & LIGHT COMPANY

Title: _____

Date: _____

Date: _____

RESERVED FOR FUTURE USE

RESERVED FOR FUTURE USE

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FPL ACCOUNT No. _____

FPL PREMISE No. _____

STANDBY AND SUPPLEMENTAL SERVICE AGREEMENT

This Agreement made this _____ day of _____, _____, by and between, _____, its successors and assigns (hereafter called "the Customer"), located at _____, Florida, and FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, its successors and assigns (hereafter called "the Company").

WITNESSETH

WHEREAS, the Customer is required, or has requested, to take electric Standby and/or Supplemental Service, or the Company is currently providing electric Standby and/or Supplemental Service, as defined by Rate Schedule SST-1, marked Exhibit "A", and made a part of this Agreement, and

WHEREAS, the Company is willing to provide, or to continue to provide, such Standby and/or Supplemental Service under the terms and conditions specified herein,

NOW THEREFORE, for and in consideration of the mutual covenants and agreements herein set forth, the parties hereto covenant and agree as follows:

1. Standby Service will be rendered in compliance with all terms and conditions set forth in Rate Schedule SST-1, marked Exhibit "A", and Supplemental Service will be initially billed under Rate Schedule _____, marked Exhibit "B", both schedules are attached hereto and made a part of this agreement, or any successor schedule which may be approved from time to time by the Florida Public Service Commission.
2. The Customer agrees to the following for purposes of applying Rate Schedule SST-1 to Company supplied service:
 - (a) The initial Contract Standby Demand is _____ kw, which is defined as the highest amount of Customer load served by the Customer's generation, _____ kw, less the amount of Customer's load which would not have to be served by the Company in the event of an outage of the Customer's generation equipment, _____ kw. The initial Contract Standby Demand shall not exceed the Customer's installed generation capacity and shall not be less than zero.

Contract Standby Demand =	Highest amount of Customer load served by the Customer's generation MINUS Amount of Customer's load which would not have to be served by the Company in the event of an outage of the Customer's generation equipment
---------------------------	---

This Contract Standby Demand will not be less than the maximum load actually served by the Customer's generation during the current month or prior 23 month period less the amount specified above as Customer's load which would not have to be served by the Company in the event of an outage of the Customer's generation equipment.

A Customer's Contract Standby Demand may be re-established to allow for the following adjustments:

1. Demand reduction resulting from the installation of FPL Demand Side Management Measures or FPL Research Project efficiency measures; or
2. Demand reductions resulting from the installation of other permanent and quantifiable efficiency measures, upon verification by FPL; or
3. Permanent changes to customer facilities that result in a permanent loss of electric load, including any fuel substitution resulting in permanently reduced electricity consumption, upon verification by FPL.

The re-established Contract Standby Demand shall be the higher of the actual Contract Standby Demand calculated in the next billing period following the Customer's written request or the prior Contract Standby Demand minus the calculated demand reduction. Requests to re-establish the Contract Standby Demand may be processed up to twice per calendar year when more than one efficiency measure is installed or where the same efficiency measure is installed in phases.

- (b) The amount of load which would not have to be served by the Company in the event of an outage of the Customer's generation equipment:
 - i) Must be demonstrated to the Company's satisfaction when initially established.

(Continued on Sheet No. 9.911)

(Continued from Sheet No. 9.910)

- ii) Is subject to periodic verification by the Customer upon request by the Company. If the Customer fails to confirm that the load not served by the Company is equal to that set forth in 2(a), then, at the option of the Company, the load set forth in 2(a) will be adjusted in the current and subsequent billing months to the level which was demonstrated.
- (c) The minimum normal operating level of the Customer's generation equipment is _____kw. Standby Service can only be provided when the Customer's generation is less than this specified amount.
3. (a) Customers desiring to operate any electric generating equipment in parallel with the Company's system shall be responsible for providing the Company with the necessary information for the evaluation of such interconnected operation. In the event that the generating facility or facilities meet(s) the criteria for "qualifying facility" status contained in Rule 25-17.080, F.A.C., then the parties' interconnection agreement entered in accordance with Rule 25-17.087, F.A.C. shall govern all aspects of interconnected operations. The Company shall not be required to permit the parallel operation of any generating equipment that does not meet qualifying facility status criteria.
- (b) The Customer shall be responsible for costs associated with interconnection equipment used to operate the generating facility either in parallel with the Company's system as specified in the interconnection agreement, or in isolation from the Company's system, including, but not limited to, responsibility for the cost associated with modifying, providing, operating, replacing, maintaining and removing all necessary lines, substations, transformers, switching and protective facilities and other equipment necessary to utilize the electric service delivered hereunder.
- (c) Any arrangement for power deliveries by the Customer into the Company's system shall be the responsibility of the Customer; the Company shall review and evaluate each request on a case-by-case basis. The Company shall not be responsible for accepting such deliveries of power unless the Customer has entered into an interconnection agreement.
4. When the Customer's power supply is to be operated at any time in parallel with the Company's electric system, the Customer shall be responsible for ensuring safeguards, which are considered adequate by the Company, to the Company's system including but not limited to the Company's customers, personnel and equipment. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, the Customer shall indemnify and save the Company harmless from any and all claims, costs, or expense for loss, damage, or injury to persons or property (including the Customer's generation system and the Company's system) caused by or resulting from:
- (a) Any act or omission by the Customer, or Customer's contractors, subcontractors, agents, servants and employees in connection with the installation or operation of the Customer's generation system or the operation thereof in connection with the Company's system;
- (b) Any defect, failure of, or fault related to the Customer's generation system;
- (c) The Customer's negligence or negligence of the Customer's contractors, subcontractors agents, servants and employees or;
- (d) Any other event or act that is the result of, or proximately caused by, the Customer's facility.
5. When the Customer's power supply is to be operated at any time in parallel with the Company's electric system, the Customer shall deliver to the Company, at least fifteen days prior to the start of any interconnection construction, a certified copy or duplicate original of a liability insurance policy issued by a mutually acceptable insurance company authorized to do business in the State of Florida. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, this policy shall jointly protect and indemnify the Customer and the Company, its officers, employees, and representatives against all liability and expense as a result of claims and suits for injuries or damages to persons or property arising out of the interconnection with the Customer, or caused by operation of any of the Customer's equipment or by the Customer's failure to maintain its facility's equipment in satisfactory and safe operating condition.

The policy providing such coverage shall provide public liability insurance, including property damage, in an amount not less than \$_____ for each occurrence. Governmental entities authorized under Florida or federal law to be self-insured, in lieu of providing evidence of adequate commercial insurance, have the option of providing to the Company evidence that the applicant has established an adequate self-insurance plan to cover the obligations of indemnification referenced herein; and shall, upon request, provide such other information as the Company may deem necessary and relevant. In addition, the above required policy or self-insurance plan, if applicable, shall be endorsed with a provision whereby the insurance company or governmental entity will notify the Company at least thirty days prior to the effective date of cancellation or material change in the policy or plan.

In addition to the minimum coverage outlined above, the various commercial general liability insurance policies are subject to FPL's approval and, upon request, the Customer shall make certified copies of these various general liability insurance policies, and/or information regarding the self-insurance plan, available for inspection by FPL's Risk Management Department within fifteen (15) days of a request therefore. Any inspection of such plans or policies shall not obligate FPL to advise the Customer of any deficiencies in such plans or policies, and such inspection shall not relieve the Customer from, or be deemed a waiver of, FPL's right to insist on strict fulfillment of the Customer's obligations hereunder.

The Customer shall pay all premiums and other charges due on said policy and keep said policy in force during the entire period of interconnection with the Company.

(Continued on Sheet No. 9.912)

(Continued from Sheet No. 9.911)

- 6. The Customer will allow the Company to make all necessary arrangements to meter (1) the amounts of demand and energy supplied by the Company, (2) the gross demand and energy output of the Customer's generation equipment and, if the Customer is interconnected and operating electric generating equipment in parallel with the Company's system, (3) the capacity and energy supplied to the Company by the Customer's generation equipment. The Company shall provide and the Customer shall be required to pay the installation, operation and maintenance costs incurred by the Company for the metering equipment required in (2) and (3) described above. The Company shall retain ownership of all metering equipment.

Where the Customer and the Company agree that the Customer's service requirements are totally standby or totally supplemental, the Company shall bill the Customer accordingly and not require Company metering of the gross demand and energy output of the Customer's generation equipment provided that where only standby service is taken, (1) the Customer and the Company agree to the maximum amount of standby service to be provided by the Company and (2) the Customer agrees to and provides to the Company such data and information from the Customer's generating equipment from its own metering as is necessary to permit analysis and reporting of the load and usage characteristics of Standby and Supplemental Service.

- 7. The initial term of this Agreement is for a period of five years from _____, _____. The Customer shall give the Company at least five years written notice sent by certified mail before the Customer may transfer from service under Rate Schedule SST-1 to service under any other applicable retail rate schedule. Transfers, with less than five years written notice, to an applicable retail rate schedule may be permitted if it can be shown that such transfer is in the best interests of the Customer, the Company, and the Company's other ratepayers.
- 8. A new Standby and Supplemental Service Agreement may be executed (1) in the event there is an increase in the Customer's generating facilities prior to the end of this Agreement or (2) it is mutually agreed between the Company and the Customer.
- 9. All formal notices affecting the provisions of this Agreement shall be delivered in person or sent by registered or certified mail to the parties designated below. The parties designate the following to be notified or to whom payment shall be sent until such time as either party furnished the other party written instructions to contact another individual.

For CUSTOMER:

For FPL:

- 10. This Agreement supersedes all previous agreements or representations, either written, verbal, or otherwise between the Customer and the Company other than an interconnection agreement, with respect to Standby and/or Supplemental Service and the matters contained herein and constitutes the entire Agreement between the parties. In the event of a conflict between this agreement and an interconnection agreement, the interconnection agreement shall prevail.
- 11. This Agreement is subject to the Company's effective "General Rules and Regulations for Electric Service" and the Rules of the Florida Public Service Commission.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed the day and year set above.

Charges and Terms Accepted:

Customer (Print or type name of Organization)

FLORIDA POWER & LIGHT COMPANY

By: _____
Signature (Authorized Representative)

By: _____
(Signature)

(Print or type name)

(Print or type name)

Title: _____

Title: _____

FPL ACCOUNT No. _____

FPL PREMISE No. _____

INTERRUPTIBLE STANDBY AND SUPPLEMENTAL SERVICE AGREEMENT

This Agreement is made this _____ day of _____, _____, by and between _____ (hereinafter called "the Customer"), located at _____, Florida, and FLORIDA POWER & LIGHT COMPANY, a corporation organized under the laws of the State of Florida (hereinafter called "the Company").

WITNESSETH

For and in consideration of the mutual covenants and agreements expressed herein, the Company and the Customer agree as follows:

1. The Company agrees to furnish and the Customer agrees to take electric service subject to the terms and conditions of the Company's Interruptible Standby and Supplemental Service Schedule ISST-1 (hereinafter called "Schedule ISST-1") as currently approved or as may be modified from time to time by the Florida Public Service Commission (hereinafter called the "Commission"). The Customer understands and agrees that, whenever reference is made in this Agreement to Schedule ISST-1, both parties intend to refer to Schedule ISST-1 as it may be modified from time to time. A copy of the Company's presently approved Schedule ISST-1 is attached hereto as Exhibit A and hereby made an integral part of this Agreement.
2. The Company and the Customer agree that Schedule ISST-1 may be modified or withdrawn subject to determinations made under Commission Rule 25-6.0438, F.A.C., Non-Firm Electric Service - Terms and Conditions, or any other Commission determination.
3. The Customer agrees to the following for purposes of applying Schedule ISST-1 to Company supplied service:
 - (a) The initial Contract Standby Demand is _____ kw, which is defined as the highest amount of Customer's load served by the Customer's generation, _____ kw, less the amount of Customer's load which would not have to be served by the Company in the event of an outage of the Customer's generation equipment, _____ kw. The initial Contract Standby Demand shall not exceed the Customer's installed generation capacity and shall not be less than zero.

Contract Standby Demand =	Highest amount of Customer load served by the Customer's generation <p style="text-align: center;">MINUS</p> Amount of Customer's load which would not have to be served by the Company in the event of an outage of the Customer's generation equipment
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This Contract Standby Demand will not be less than the maximum load actually served by the Customer's generation during the current month or prior 23 month period less the amount specified above as Customer's load which would not have to be served by the Company in the event of an outage of the Customer's generation equipment.

A Customer's Contract Standby Demand may be re-established to allow for the following adjustments:

1. Demand reduction resulting from the installation of FPL Demand Side Management Measures or FPL Research Project efficiency measures; or
2. Demand reductions resulting from the installation of other permanent and quantifiable efficiency measures, upon verification by FPL; or
3. Permanent changes to customer facilities that result in a permanent loss of electric load, including any fuel substitution resulting in permanently reduced electricity consumption, upon verification by FPL.

The re-established Contract Standby Demand shall be the higher of the actual Contract Standby Demand calculated in the next billing period following the Customer's written request or the prior Contract Standby Demand minus the calculated demand reduction. Requests to re-establish the Contract Standby Demand may be processed up to twice per calendar year when more than one efficiency measure is installed or where the same efficiency measure is installed in phases.

- (b) The amount of load which would not have to be served by the Company in the event of an outage of the Customer's generation equipment:
 - i) Must be demonstrated to the Company's satisfaction when initially established.

(Continued on Sheet No. 9.921)

(Continued from Sheet No. 9.920)

- ii) Is subject to periodic verification by the Customer upon request by the Company. If the Customer fails to confirm that the load not served by the Company is equal to that set forth in 2(a), then, at the option of the Company, the load set forth in 2(a) will be adjusted in the current and subsequent billing months to the level which was demonstrated.
- (c) The minimum normal operating level of the Customer's generation equipment is _____ kw. Standby Service can only be provided when the Customer's generation is supplying less than this specified amount.
- 4. The Customer agrees to a "Firm Standby Demand" level of _____ kw during the periods when the Company is interrupting the Customer's service. This "Firm Standby Demand" level shall not be exceeded during periods when the Company is interrupting load. Upon mutual agreement of the Company and the Customer, the Customer's Firm Standby Demand may subsequently be raised or lowered, as long as the change in the "Firm Standby Demand" level is not a result of a transfer of load from the interruptible portion of the Customer's load. The Customer shall notify the Company upon adding firm load.
- 5. The Customer will allow the Company to make all necessary arrangements to meter (1) the amounts of demand and energy supplied by the Company, (2) the gross demand and energy output of the Customer's generation equipment to the load served by the Customer and, if the Customer is interconnected and operating electric generating equipment in parallel with the Company's system, (3) the capacity and energy supplied to the Company by the Customer's generation equipment. The Company shall provide and the Customer shall be required to pay the installation, operation and maintenance costs incurred by the Company for the metering equipment required in (2) and (3) described above. The Company shall retain ownership of all metering equipment.

Where the Customer and the Company agree that the Customer's service requirements are totally standby or totally supplemental, the Company shall bill the Customer accordingly and not require Company metering of the gross demand and energy output of the Customer's generation equipment provided that where only standby service is taken, (1) the Customer and the Company agree to the maximum amount of standby service to be provided by the Company and (2) the Customer agrees to and provides to the Company such data and information from the Customer's generating equipment from its own metering as is necessary to permit analysis and reporting of the load and usage characteristics of service provided pursuant to Schedule ISST-1.

- 6. Prior to the Customer's receipt of service under Schedule ISST-1 the Customer must provide the Company access to inspect any and all of the Customer's interruptible equipment, and must also have received approval from the Company that said equipment is satisfactory to interrupt the Customer's load. The Customer shall be responsible for meeting any applicable electrical code standards and legal requirements pertaining to the installation, maintenance and repair of the equipment. The Customer shall be responsible for maintaining the Customer's interruptible equipment and shall provide the Company access at any reasonable time to inspect the condition of the equipment for purposes of determining whether the interruptible equipment is satisfactory to interrupt the Customer's interruptible load. It is expressly understood that the initial approval and later inspections by the Company are not for the purpose of, and are not to be relied upon by the Customer for, determining whether the interruptible equipment has been adequately maintained or is in compliance with any applicable electrical code standards or legal requirements.
- 7. Upon completion of the installation of the interruptible equipment, a test of this equipment will be conducted at a time and date mutually agreeable to the Company and the Customer. The test will consist of a period of interruption of not less than one hour. Effective upon the completion of the testing of the interruptible equipment, the Customer will agree to a "Firm Standby Demand". Service under Schedule ISST-1 cannot commence prior to the successful completion of the test.
- 8. In order to minimize the frequency and duration of interruptions under Schedule ISST-1, the Company will attempt to obtain reasonably available additional capacity and/or energy under the Continuity of Service Provision in Schedule ISST-1. The Company's obligation in this regard is no different than its obligation in general to purchase power to serve its Customers during a capacity shortage; in other words, the Company is not obligated to account for or otherwise reflect in its generation and transmission planning and construction the possibility of providing capacity and/or energy under the Continuity of Service Provision. Customers receiving service under Schedule ISST-1 may elect to continue taking service under the Continuity of Service Provision and it will be provided only if such capacity and/or energy can be obtained by the Company and can be transmitted and distributed to non-firm Customers without any impairment of the Company's system or service to other firm Customers. The Customer elects / does not elect to continue taking service under the Continuity of Service Provision. The Customer may countermand the election specified above by providing written notice to the Company pursuant to the guidelines set forth in Schedule ISST-1. The Company's obligations under this paragraph 8 are subject to the terms and conditions specifically set forth in Schedule ISST-1.
- 9. The Customer agrees to be responsible for the determination that all electrical equipment to be interrupted is in good repair and working condition. The Company shall not be responsible for the repair, maintenance or replacement of the Customer's equipment.
- 10. (a) Customers desiring to operate any electric generating equipment in parallel with the Company's system shall be responsible for providing the Company with the necessary information for the evaluation of such interconnected operation. In the event that the generating facility or facilities meet(s) the criteria for "qualifying facility" status contained in Rule 25-17.080, F.A.C., then the parties' interconnection agreement entered in accordance with Rule 25-17.087, F.A.C. shall govern all aspects of interconnected operations. The Company shall not be required to permit the parallel operation of any generating equipment that does not meet qualifying facility status criteria.

(Continued on Sheet No. 9.922)

(Continued from Sheet No. 9.921)

- (b) The Customer shall be responsible for costs associated with interconnection equipment used to operate the generating facility either in parallel with the Company's system as specified in the interconnection agreement, or in isolation from the Company's system, including, but not limited to, responsibility for the cost associated with modifying, providing, operating, replacing, maintaining and removing all necessary lines, substations, transformers, switching and protective facilities and other equipment necessary to utilize the electric service delivered hereunder.
 - (c) Any arrangement for power deliveries by the Customer into the Company's system shall be the responsibility of the Customer; the Company shall review and evaluate each request on a case-by-case basis. The Company shall not be responsible for accepting such deliveries of power unless the Customer has entered into an interconnection agreement.
11. When the Customer's power supply is to be operated at any time in parallel with the Company's electric system, the Customer shall be responsible for ensuring safeguards, which are considered adequate by the Company, to the Company's system including but not limited to the Company's customers, personnel and equipment. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, the Customer shall indemnify and save the Company harmless from any and all claims, costs, or expense for loss, damage, or injury to persons or property (including the Customer's generation system and the Company's system) caused by or resulting from:
- (a) Any act or omission by the Customer, or Customer's contractors, subcontractors, agents, servants and employees in connection with the installation or operation of the Customer's generation system or the operation thereof in connection with the Company's system;
 - (b) Any defect in, failure of, or fault related to the Customer's generation system;
 - (c) The Customer's negligence or negligence of the Customer's contractors, subcontractors agents, servants and employees or;
 - (d) Any other event or act that is the result of, or proximately caused by, the Customer's facility.
12. When the Customer's power supply is to be operated at any time in parallel with the Company's electric system, the Customer shall deliver to the Company, at least fifteen days prior to the start of any interconnection construction, a certified copy or duplicate original of a liability insurance policy issued by a mutually acceptable insurance company authorized to do business in the State of Florida. Subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, this policy shall jointly protect and indemnify the Customer and the Company, its officers, employees, and representatives against all liability and expense as a result of claims and suits for injuries or damages to persons or property arising out of the interconnection with the Customer, or caused by operation of any of the Customer's equipment or by the Customer's failure to maintain its facility's equipment in satisfactory and safe operating condition.

The policy providing such coverage shall provide public liability insurance, including property damage, in an amount not less than \$_____ for each occurrence. Governmental entities authorized under Florida or federal law to be self-insured, in lieu of providing evidence of adequate commercial insurance, have the option of providing to the Company evidence that the applicant has established an adequate self-insurance plan to cover the obligations of indemnification referenced herein; and shall, upon request, provide such other information as the Company may deem necessary and relevant. In addition, the above required policy or self-insurance plan, if applicable, shall be endorsed with a provision whereby the insurance company or governmental entity will notify the Company at least thirty days prior to the effective date of cancellation or material change in the policy or plan.

In addition to the minimum coverage outlined above, the various commercial general liability insurance policies are subject to FPL's approval and, upon request, the Customer shall make certified copies of these various general liability insurance policies, and/or information regarding the self-insurance plan, available for inspection by FPL's Risk Management Department within fifteen (15) days of a request therefore. Any inspection of such plans or policies shall not obligate FPL to advise the Customer of any deficiencies in such plans or policies, and such inspection shall not relieve the Customer from, or be deemed a waiver of, FPL's right to insist on strict fulfillment of the Customer's obligations hereunder.

The Customer shall pay all premiums and other charges due on said policy and keep said policy in force during the entire period of interconnection with the Company.

13. The initial term of this Agreement is for a period of five (5) years from _____, _____. The Customer shall give the Company at least five (5) years written notice sent by certified mail before the Customer may transfer from service under Rate Schedule ISST-1 to service under a firm retail rate schedule. Transfers, with less than five (5) years written notice, to an applicable retail rate schedule may be permitted if it can be shown that such transfer is in the best interests of the Customer, the Company, and the Company's other customers.
14. If the Customer no longer wishes to receive any type of electric service from the Company, the Customer may terminate this Agreement by giving thirty (30) days advance written notice to the Company.

(Continued on Sheet No. 9.923)

(Continued from Sheet No. 9.922)

- 15. If the Customer has entered into a contractual agreement to sell firm capacity and energy from the Customer's generation to the Company, and the Customer cannot restart its generation equipment without power supplied by the Company, the Customer must receive Standby and Supplemental Service under the Company's Schedule SST-1.
- 16. The Company may terminate this Agreement at any time if the Customer fails to comply with the terms and conditions of Schedule ISST-1 or this Agreement. Prior to any such termination, the Company shall notify the Customer at least ninety (90) days in advance and describe the Customer's failure to comply. The Company may then terminate this Agreement at the end of the 90-day notice period unless the Customer takes measures necessary to eliminate, to the Company's satisfaction, the compliance deficiencies described by the Company. Notwithstanding the foregoing, if, at any time during the 90-day period, the Customer either refuses or fails to initiate and pursue corrective action, the Company shall be entitled to suspend forthwith the monthly billing under the Schedule ISST-1, bill the Customer under the otherwise applicable firm service rate schedule and apply the rebilling and penalty provisions enumerated under TERM OF SERVICE in Schedule ISST-1.
- 17. A new Interruptible Standby and Supplemental Service Agreement may be executed (1) in the event there is an increase in the Customer's generating capacity prior to the end of this Agreement or (2) it is mutually agreed between the Company and the Customer.
- 18. The Customer agrees that the Company will not be liable for any damages or injuries that may occur as a result of an interruption of electric service pursuant to the terms of Schedule ISST-1 by remote control or otherwise.
- 19. This agreement may not be assigned by the Customer without the prior written consent of the Company.
- 20. All formal notices affecting the provisions of this Agreement shall be delivered in person or sent by registered or certified mail to the parties designated below. The parties designate the following to be notified or to whom payment shall be sent until such time as either party furnished the other party written instructions to contact another individual.
- 21. This Agreement supersedes all previous agreements or representations, either written, verbal, or otherwise between the Customer and the Company other than an interconnection agreement, with respect to Interruptible Standby and/or Supplemental Service and the matters contained herein and constitutes the entire Agreement between the parties. In the event of a conflict between this agreement and an interconnection agreement, the interconnection agreement shall prevail.
- 22. This Agreement is subject to the Company's effective "General Rules and Regulations for Electric Service" and the Rules of the Florida Public Service Commission.

IN WITNESS WHEREOF the Customer and the Company have caused this Agreement to be executed by their duly authorized officers as of the day and year set above.

Charges and Terms Accepted:

Customer (Print or type name of Organization)

FLORIDA POWER & LIGHT COMPANY

By: _____
Signature (Authorized Representative)

By: _____
(Signature)

(Print or type name)

(Print or type name)

Title: _____

Title: _____

MEDICALLY ESSENTIAL SERVICE – TERMS AND CONDITIONS

In order for Florida Power & Light Company to determine whether a customer is eligible for designation as a Medically Essential Service (“MES”) Customer, Part A must be completed and signed by the Customer and the Patient or Guardian (if other than the Customer). Part B is to be completed by the Patient’s physician and the entire form consisting of both Part A and Part B returned directly to FPL.

To the best of my knowledge and belief, the Patient identified in Part A of the application is medically dependent on electric-powered equipment that must be operated continuously or as circumstances require as specified by the Patient’s physician to avoid the loss of life or immediate hospitalization. The Patient is a permanent resident at the Service Address identified above. I agree to notify FPL when this equipment is no longer in use. FPL has fully explained how my account will be handled regarding any collection action due to non-payment of the bill. **I understand that FPL does not guarantee uninterrupted service or assign a priority status to my account for service restoration during outages. I understand that I must be prepared with backup medical equipment and/or power and a planned course of action in the event of prolonged outages.** I agree that FPL, upon request of federal, state, or local governmental authorities whose duties or functions include emergency response or disaster relief or prevention, or private entities authorized by congressional charter to assist in disaster relief efforts, may disclose to such requesting entity the following MES information: the MES Customer name and service address. However, I also understand that FPL may not receive any such requests for this MES information and that FPL has no obligation to release this MES information to any such entity. In order to be excluded from the disclosure by FPL of the MES information on this form, I must contact FPL to request a Notice of Exclusion From Disclosure. The Notice of Exclusion From Disclosure must be returned to FPL, as provided with the Notice of Exclusion From Disclosure, and will be effective upon FPL’s receipt of such properly completed Notice. If I wish to ensure that the MES and/or any additional information regarding the Patient’s condition is furnished to any such entity, I will contact the relevant authorities and provide the MES and/or additional information myself. **I agree to hold FPL harmless from any claim based on or related to the disclosure of my information by or to FPL, or any failure of FPL to disclose the MES information whether advertent or inadvertent and whether or not the MES information was requested.**

WARNING – PART A – CUSTOMER APPLICATION: Knowingly making a false or misleading statement in completing the Customer Application could result in the denial or termination of the medically essential service certification.

This certificate shall be deemed valid for a period of twelve (12) months from the date the certificate is accepted by FPL for purposes of determining that a customer qualifies as a Medically Essential Service Customer within the meaning of Section 1.65 of the Company’s General Rules and Regulations for Electric Service, or that such designation should be renewed. FPL reserves the right to verify the accuracy of the information provided on this Physician’s Certificate.

(continued on sheet No. 9.931)

(Continued from sheet 9.930)

PART A: CUSTOMER APPLICATION

FPL Account No.: _____
Customer Name: _____
Service Address: _____
City, State, Zip: _____
Daytime Area Code & Telephone Nos.: () _____ - _____ and /or () _____ - _____
Name of Patient Using Equipment: _____ Patient's Physician: _____

I agree to Terms and Conditions

Customer Signature: _____ Date: _____
Patient/Guardian Signature: _____ Date: _____

PART B: PHYSICIAN'S CERTIFICATE

Physician's Name: _____ Physician's License #: _____
Physician's Address: _____
Physician's Area Code & Telephone Nos.:() _____ - _____ and/or () _____ - _____

I, _____, duly licensed and authorized to practice medicine in the
[Name of physician]
State of Florida, hereby certify that _____,
[Name of patient]
who resides at _____,
[Patient's place of residence]

is under my care, and/or has consulted with me within the past 12 months, and depends upon electric-powered equipment as follows that must be operated continuously or as circumstances require in order to avoid the loss of his/her life or serious medical complications.

The patient uses this equipment ____ hours within each twenty-four (24) hour period. The following medical condition is why, in my opinion, this patient needs the continuous or specified use of this equipment.

Physician's Signature: _____ Date: _____

WARNING – PART B – PHYSICIAN'S CERTIFICATE: False certification of medically essential service by a physician is a violation of s. 458.331(1)(h) or s. 459.015(1)(i), Fla. Stat. and constitutes grounds for discipline, penalties and /or enforcement.

Return to FPL at: _____ .

This Notice of Exclusion From Disclosure will be effective upon FPL's receipt of this properly completed Notice and will remain in effect until FPL is advised by the customer in writing to discontinue this Notice of Exclusion From Disclosure, regardless of any transfer of service to a different service address and/or a different FPL Account Number.

**FLORIDA POWER & LIGHT COMPANY
MEDICALLY ESSENTIAL SERVICE
NOTICE OF EXCLUSION FROM DISCLOSURE**

Date: _____ FPL Account No.: _____

Customer Name: _____ FPL Customer Number: _____

Service Address: _____

City, State, Zip: _____

Daytime Area Code & Telephone Nos.: (____)____ - _____ and/or (____) ____ - _____

Name of Patient Using Equipment: _____ Patient's Physician: _____

I understand that FPL may be requested to furnish customer names and service addresses of customers who are designated as Medically Essential Service customers, as provided in the Customer Application for Medically Essential Service, to federal, state, or local governmental authorities whose duties or functions include emergency response or disaster relief or prevention, or private entities authorized by congressional charter to assist in disaster relief efforts. **I hereby direct FPL NOT TO DISCLOSE such information relative to the FPL Customer Number specified above.** I understand and agree that because of my directive to FPL, such requesting agency(ies) will not have any information regarding the medically essential service designation for my electric service specified above unless and until it is specifically provided by me. If I wish to ensure that information regarding the medically essential service designation for this electric service is furnished to any such entity, I will contact the relevant authorities and provide the information myself. **I agree to hold FPL harmless from any claim based on or related to the lack of disclosure of my information including any personal injury or harm that may be a result of this lack of disclosure to such requesting entities for the purpose of emergency response or disaster relief or prevention.**

Signature of FPL Customer

Date _____, 20 ____

Signature of Patient or Guardian (if other than Customer)

Date _____, 20 ____

RESERVED FOR FUTURE USE

RESERVED FOR FUTURE USE

PERFORMANCE GUARANTY AGREEMENT

This Performance Guaranty Agreement (“Agreement”), made this _____ day of _____ 20____, is by and between _____ (hereinafter “Applicant”) and FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, (hereinafter the “Company”).

WITNESSETH:

Whereas, in connection with the property located at _____, in _____, Florida (the “Premises”), Applicant has requested that Company install electric infrastructure in order to provide electric service to the Premises;

Whereas, Applicant's estimate of the electric power needs of the Premises will require an expansion of Company's present electric system and, due to their nature, location, voltage, or other characteristics, the requested facilities are not likely to be required by other customers within five years following the requested date for the proposed system expansion;

Whereas, because of the uncertainty that Company will fully recover its investment in such infrastructure expansion should the Customer's projected load not materialize and the need to avoid placing the burden for those costs on Company's other customers; and

Whereas, Applicant is willing to provide assurance that Company will recover its investment in the expansion of Company's electric system based on Applicant's projections in the event that sufficient revenue from service to the Premises is not realized;

Now, therefore, in recognition of the foregoing premises and in consideration of the covenants and promises set forth herein below, Company and Applicant do hereby agree as follows:

ARTICLE I - DEFINITIONS

1.01 “Base Revenue” is the portion of electric revenue received by Company during the Performance Guaranty Period for electric service to the Premises consisting only of applicable base demand charges, base non-fuel energy charges, and facilities rental charges, if applicable. Base Revenue excludes, without limitation, capacity payment, customer, conservation, environmental, and fuel charges, franchise fees, and taxes.

1.02 “Performance Guaranty Period” is the period of time commencing with the day on which the requested level of service is installed and available to Customer, as determined by Company, (“In-Service Date”), and ending on the fourth anniversary of the In-Service Date (“Expiration Date”).

ARTICLE II - PERFORMANCE GUARANTY AMOUNT

2.01 The amount of the Performance Guaranty is the total cost of facilities to be installed to serve the Premises, as estimated by Company, less the amount of Contribution In Aid of Construction paid, if any, by the Applicant pursuant to Company's General Rules and Regulations for Electric Service.

(Continued on Sheet No. 9.947)

(Continued from Sheet No. 9.946)

- = \$ _____ Estimated total cost of facilities to be installed to serve the Premises
- \$ _____ Contribution In Aid of Construction (CIAC) paid by Applicant
- = \$ _____ Performance Guaranty

The Applicant shall provide the above-specified Performance Guaranty to Company prior to Company installing the facilities to ensure that the Base Revenue justifies Company’s investment.

2.02 This Agreement does not apply in lieu of CIAC. Nothing in this Agreement shall be construed as prohibiting Company from collecting from Applicant a CIAC for underground service, where otherwise applicable.

2.03 The facilities to be installed to serve the Premises, together with their estimated costs, are shown on Exhibit A of this Agreement.

ARTICLE III - PAYMENT AND REFUND

3.01 At Applicant’s option, the Performance Guaranty may be posted with Company in cash, or may be secured either by a surety bond or irrevocable bank letter of credit in a form acceptable to Company. At the end of Performance Guaranty Period, or upon termination of service by Applicant, whichever is earlier, if the Base Revenue is less than the Performance Guaranty, Applicant shall pay to Company the Performance Guaranty, less the amount of Base Revenue.

3.02 If, during the Performance Guaranty Period, Base Revenue equals or exceeds the Performance Guaranty and Applicant secured the Performance Guaranty through a surety bond, or irrevocable letter of credit, such bond or letter of credit shall be released or cancelled, or the amount secured by such instrument shall be reduced by the amount of the Performance Guaranty, as applicable.

3.03 If the Applicant elects to post the Performance Guaranty in cash, the Company agrees on a monthly basis to reduce the Performance Guaranty cash balance by the amount of the previous month’s Base Revenue charges and credit the same amount to Applicant’s previous monthly electric service billing, until such time the Performance Guaranty cash balance is depleted.

3.04 In the event that Company's construction of facilities shown on Exhibit A commences but is not completed due to a change in Applicant’s plans or other circumstances related to the Premises that are not within Company’s control, or if twelve months following the effective date of this Agreement Company has been unable to complete the requested installation and provide an In-Service Date due to changes or delays in Applicant’s schedule or plans, Company shall be immediately entitled to an amount of the Performance Guaranty equal to Company's construction expenditures incurred in connection with this Agreement. Thereafter, Company may elect to terminate this Agreement and the balance, if any, of the Performance Guaranty will be refunded if Applicant posted a cash Performance Guaranty.

ARTICLE IV – TERM OF AGREEMENT

The term of this Agreement shall commence on the date first above written and end on the Expiration Date, or on the date Base Revenue equals the Performance Guaranty, whichever is earlier, unless terminated earlier pursuant to Section 3.04.

(Continued on Sheet No. 9.948)

(Continued from Sheet No. 9.947)

ARTICLE V - FINAL SETTLEMENT

Upon the termination or expiration of this Agreement, any portion of the Performance Guaranty not previously refunded or otherwise eligible for refund under the terms of this Agreement shall be retained by Company, and any remaining balance of the Performance Guaranty that is subject to a letter of credit or surety bond shall become immediately due and payable.

ARTICLE VI - TITLE AND OWNERSHIP

Title to and complete ownership and control over the above-referenced expansion shall at all times remain with Company and Company shall have the right to use the same for the purpose of serving other customers.

ARTICLE VII - ENTIRE AGREEMENT

This Agreement supersedes all previous agreements, or representations, whether written or oral, between Company and Applicant, made with respect to the matters herein contained, and when duly executed constitutes the entire agreement between the parties hereto.

ARTICLE VIII - HEIRS, SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto, but Applicant shall not assign this Agreement without first having obtained the written consent of Company, such consent not to be unreasonably withheld.

ARTICLE IX – SUBJECT TO FPSC RULES

This Agreement is subject to the Rules and Orders of the FPSC and to Company’s Electric Tariff, including, but not limited to the General Rules and Regulations for Electric Service (collectively “Regulations”), as such Regulations are now written, or as they may be hereafter revised, amended or supplemented. In the event of any conflict between the terms of this Agreement and the Regulations, the provisions of said Regulations shall control, as they are now written, or as they may be hereafter revised, amended or supplemented, and, at Company’s request, Customer agrees to conform this Agreement to such provisions, or enter into a new Agreement reflecting such provisions. This Agreement shall not be used in lieu of applicable requirements set forth in the Regulations pertaining to contributions in aid of construction, advances or deposits.

In Witness Whereof, Applicant and Company hereby have caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted by:

Applicant (Print/Type Name of Organization)

FLORIDA POWER & LIGHT COMPANY

By: _____
Signature (Authorized Representative)

By: _____
Signature (Authorized Representative)

(Print or Type Name)

(Print or Type Name)

Title: _____ Title: _____

PERFORMANCE GUARANTY AGREEMENT FOR INCREMENTAL CAPACITY

This Performance Guaranty Agreement for Incremental Capacity (“Agreement”), made this _____ day of _____ 20____, is by and between _____ (hereinafter “Applicant”) and FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, (hereinafter the “Company”).

WITNESSETH:

Whereas, in connection with the property located at _____, in _____, Florida (the “Premises”), Applicant has requested that Company install electric infrastructure in order to provide electric service to the Premises;

Whereas, Applicant's estimate of the electric power needs of the Premises will require an expansion of Company's present electric system to provide capacity above and beyond that which typically would be necessary for service to the Premises;

Whereas, because of the uncertainty associated with Applicant's projections of the electric power needs of the Premises, Company may not fully recover its investment in such infrastructure expansion, thus potentially burdening Company's other electric customers; and

Whereas, Applicant is willing to provide assurance that Company will recover its investment in the expansion of Company's electric system based on Applicant's projections in the event that the estimated load at the Premises does not materialize;

Now, therefore, in recognition of the foregoing premises and in consideration of the covenants and promises set forth herein below, Company and Applicant do hereby agree as follows:

ARTICLE I - DEFINITIONS

1.01 “Base Revenue” is the portion of electric revenue received by Company for electric service to the Premises consisting only of applicable base demand charges, base non-fuel energy charges, and facilities rental charges, if applicable. Base Revenue excludes, without limitation, capacity payment, customer, conservation, environmental, and fuel charges, franchise fees, and taxes.

1.02 “Baseline Base Revenue” is the estimated portion of Base Revenue received during the Performance Guaranty Period that Company attributes to Baseline Capacity. Baseline Base Revenue is calculated by multiplying the Baseline Capacity (as defined in Section 1.03) by the base demand charge and adding to that amount the product of Baseline Capacity, actual load factor, the number of hours in the billing period, and the applicable base non-fuel energy charge.

1.03 “Baseline Capacity”, as determined by Company, is (a) the currently existing capacity where Company has in place facilities ready and available to provide electric service to the Premises albeit at a lower level of capacity than requested; or (b) the amount of capacity necessary to provide service to a more typical level of load given the location and/or type of facility or building, where Company does not have in place facilities ready and available to provide electric service to the Premises.

(Continued on Sheet No. 9.951)

(Continued from Sheet No. 9.950)

1.04 “Incremental Base Revenue” is actual Base Revenue received during the Performance Guaranty Period for electric service rendered to the Premises in excess of Baseline Base Revenue.

1.05 “Incremental Capacity,” as determined by Company, is the positive difference, if any, between Baseline Capacity and the amount of capacity (measured in kW) necessary to meet Applicant’s projections of electric load at the Premises.

1.06 “Performance Guaranty Period” is the period of time commencing with the day on which the requested level of service is installed and available to Customer, as determined by Company, (“In-Service Date”), and ending on the third anniversary of the In-Service Date (“Expiration Date”).

ARTICLE II - PERFORMANCE GUARANTY AMOUNT

2.01 For purposes of this Agreement, the derivation of Incremental Capacity is shown in the following table.

Incremental Capacity (1)	Existing Structure (2)	New Structure (3)	Total Structure (2)+(3)
a. Square Footage			
b. Requested watts/sq ft			
c. Baseline Capacity watts/sq ft			
d. Requested Capacity (in kW) (a * b / 1000)			
e. Baseline Capacity (in kW) (a * c / 1000)			
f. Incremental Capacity (in kW) (d - e)			

2.02 The amount of the Performance Guaranty is the cost, as determined by Company, of the Incremental Capacity multiplied by a factor of 1.52. The cost of the Incremental Capacity is the positive difference, if any, between Company’s estimated cost of providing the requested level of capacity and Baseline Capacity. Applicant agrees to provide Company a Performance Guaranty in the amount specified in the table below prior to Company installing the facilities necessary to provide the Incremental Capacity to serve the Premises.

Performance Guaranty (1)	Existing Structure (2)	New Structure (3)	Total Structure (2 + 3)
a. Cost of requested capacity			
b. Cost of Baseline Capacity	-0-		
c. Incremental cost (a – b)			
d. Present value factor	1.52	1.52	1.52
e. Performance Guaranty (c * d)			

(Continued on Sheet No. 9.952)

(Continued from Sheet No. 9.951)

ARTICLE III - PAYMENT AND REFUND

3.01 At Applicant's option, the Performance Guaranty may be posted with Company in cash, or may be secured either by a surety bond or irrevocable bank letter of credit in a form acceptable to Company. At the end of Performance Guaranty Period, or upon termination of service by Applicant, whichever is earlier, if the Incremental Base Revenue is less than the Performance Guaranty, Applicant shall pay to Company the Performance Guaranty, less the amount of Incremental Base Revenue.

3.02 If, during the Performance Guaranty Period, Incremental Base Revenue equals or exceeds the Performance Guaranty and Applicant secured the Performance Guaranty through a surety bond, or irrevocable letter of credit, such bond or letter of credit shall be released or cancelled, or the amount secured by such instrument shall be reduced by the amount of the Performance Guaranty, as applicable.

3.03 If the Applicant elects to post the Performance Guaranty in cash, the Company agrees on a monthly basis to reduce the Performance Guaranty cash balance by the amount of the previous month's Incremental Base Revenue charges and credit the same amount to Applicant's previous monthly electric service billing, until such time the Performance Guaranty cash balance is depleted.

3.04 In the event that Company's construction of facilities shown on Exhibit A commences but is not completed due to a change in Applicant's plans or other circumstances related to the Premises that are not within Company's control, or if twelve months following the effective date of this Agreement Company has been unable to complete the requested installation and provide an In-Service Date due to changes or delays in Applicant's schedule or plans, Company shall be immediately entitled to an amount of the Performance Guaranty equal to Company's construction expenditures incurred in connection with this Agreement. Thereafter, Company may elect to terminate this Agreement and the balance, if any, of the Performance Guaranty will be refunded if Applicant posted a cash Performance Guaranty.

ARTICLE IV - TERM OF AGREEMENT

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ARTICLE V - FINAL SETTLEMENT

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(Continued on Sheet No. 9.953)

(Continued from Sheet No. 9.952)

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This Agreement is subject to the Rules and Orders of the FPSC and to FPL’s Electric Tariff, including, but not limited to the General Rules and Regulations for Electric Service (collectively “Regulations”), as such Regulations are now written, or as they may be hereafter revised, amended or supplemented. In the event of any conflict between the terms of this Agreement and the Regulations, the provisions of said Regulations shall control, as they are now written, or as they may be hereafter revised, amended or supplemented, and, at Company’s request, Customer agrees to conform this Agreement to such provisions, or enter into a new Agreement reflecting such provisions. This Agreement shall not be used in lieu of applicable requirements set forth in the Regulations pertaining to contributions in aid of construction, advances or deposits.

In Witness Whereof, Applicant and Company hereby have caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted by:

Applicant (Print/Type Name of Organization)

FLORIDA POWER & LIGHT COMPANY

By: _____
Signature (Authorized Representative)

By: _____
Signature (Authorized Representative)

(Print or Type Name)

(Print or Type Name)

Title: _____

Title: _____