

Tri-Party Net Metering Power Purchase Agreement

This Tri-Party Net Metering Power Purchase Agreement (this “Agreement”) is entered into this _____ day of _____, 20____, by and between Florida Municipal Power Agency, a governmental joint action agency created and existing under the laws of the State of Florida, Utility Board of the City of Key West, DBA Keys Energy Services, (hereinafter “Utility”), a municipal owned utility, organized and existing under the laws of the State of Florida and _____ the owner or lessee of a renewable generation system located within Utility’s service territory (hereinafter “RGS Owner”).

Section 1. Recitals

1.01. Utility and RGS Owner have executed Utility’s Standard Interconnection Agreement for Customer-Owned Renewable Generation System pursuant to which Utility has agreed to permit interconnection of RGS Owner’s renewable generation to Utility’s electric system at _____ (hereinafter “Premises”), and RGS Owner has agreed to deliver excess electric energy generated by RGS Owner’s renewable generation system to Utility’s electric distribution system;

1.02. Utility and FMPA have entered into the All-Requirements Power Supply Contract, dated as of July 7, 1997, (hereinafter the “ARP Contract”) pursuant to which Utility has agreed to purchase and receive, and FMPA has agreed to sell and supply Utility with all energy and capacity necessary to operate Utility’s electric system, which limits Utility’s ability to directly purchase excess energy from customer-owned renewable generation.

1.03. In order to promote the development of small customer-owned renewable generation by permitting Utility to allow its customers to interconnect with Utility’s electric system and to allow Utility customers to offset their electric consumption with customer-owned renewable generation, FMPA, in accordance with the terms and conditions of this agreement, has agreed to purchase excess customer-owned generation interconnected to Utility’s electric system.

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

Section 2. Interconnection

2.01. RGS Owner shall not begin or resume parallel operations with Utility’s electric distribution system until RGS Owner has executed Utility’s Standard Interconnection Agreement for Small Customer-Owned Renewable Generation and is in compliance with all terms and conditions therein. FMPA shall not be responsible for ensuring the customer-owned renewable generation is installed and operated in accordance with all applicable safety codes and standards. Utility shall establish and enforce terms and conditions of operation and disconnection of all interconnected customer-owned renewable generation.

2.02. The term “customer-owned renewable generation” means an electric generating system located on a customer's premises that is primarily intended to offset part or all of the

customer's electricity requirements with renewable energy. The term "customer-owned renewable generation" does not preclude the customer of record from contracting for the purchase, lease, operation, or maintenance of an on-site renewable generation system with a third-party under terms and conditions that do not include the retail purchase of electricity from the third party, and the term includes landlord-owned renewable generation, where ARP Participant's customer is the tenant occupying or using the Premises.

Section 3. Metering

3.01. In accordance with Utility's Standard Interconnection Agreement for Customer-Owned Renewable Generation, Utility shall install metering equipment at the point of delivery at the Premises capable of recording two separate meter readings: (1) the flow of electricity from Utility to the Premises, and (2) the flow of excess electricity from the Premises to Utility. Utility shall take meter reading on the same cycle as the otherwise applicable rate schedule.

Section 4. Purchase of Excess Customer-Owned Renewable Generation

4.01. Customer-owned renewable generation shall be first used to offset the demand for Utility's electricity at the Premises. All electric power and energy delivered by Utility to the Premises shall be received and paid for pursuant to the terms, conditions, and rates of the Utility's rate schedule otherwise applicable to the Premises at the time of delivery.

4.02. Excess customer-owned renewable generation shall be delivered to the Utility's electric distribution system. For purposes of this Agreement, the term "excess customer-owned renewable generation" means any kWh of electrical energy produced by the customer-owned renewable generation system that is not consumed at the Premises and is delivered to Utility's electric distribution system. FMPA agrees to purchase and receive, and RGS Owner agrees to sell and deliver, all excess customer-owned renewable generation at the energy rate established by FMPA, which shall be calculated in accordance with Schedule A. Excess customer-owned renewable generation shall be purchased in the form of a credit on the monthly energy consumption bill from Utility for the Premises.

4.03. In the event that a given monthly credit for excess customer-owned renewable generation exceeds the total billed amount for energy consumption at the Premises in any corresponding month, then the excess credit shall be applied to the subsequent month's bill. Excess energy credits produced pursuant to the preceding sentence shall accumulate and be used to offset energy consumption in accordance with the Utility's Net Metering Service Rate Schedule.

4.04. FMPA and Utility shall not be required to purchase or receive excess customer-owned renewable generation, and may require RGS Owner to interrupt or reduce production of customer-owned renewable generation, (a) when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any Utility equipment or part of the Utility electric system; or (b) if either FMPA or Utility determine, in their sole judgment, that curtailment, interruption, or reduction is necessary because of emergencies, forced outages, force majeure, or compliance with any applicable electric code or standard.

Section 5. Renewable Energy Credits

5.01. RGS Owner shall offer FMPA a first right of refusal before selling or granting to any third party the right to the Green Attributes associated with its customer-owned renewable generation that is interconnected to Utility's electric distribution system. The term "Green Attributes" shall include any and all credits, certificates, benefits, environmental attributes, emissions reductions, offsets, and allowances, however entitled, attributable to the generation of electricity from the customer owned-renewable generation and its displacement of conventional energy generation.

5.02. Any additional meter(s) installed to measure total renewable electricity generated by the RGS Owner for the purposes of measuring Green Attributes, including any renewable energy certificates (or similarly titled credits for renewable energy generated), shall be installed at the expense of the RGS Owner, unless determined otherwise during negotiations for the sale of the RGS Owner's credits to FMPA.

Section 6. Term and Termination

6.01. This Agreement shall become effective upon execution by all Parties, and shall remain in effect thereafter on a month-to-month basis until terminated by any Party upon thirty (30) days written notice to all other Parties.

6.02. This Agreement shall terminate immediately and without notice upon: (a) termination of the electric distribution service by Utility to Premises; or (b) failure by RGS Owner to comply with any of the terms and conditions of this Agreement, the ARP Net Metering Policy, or Utility's Standard Interconnection Agreement for Customer-Owned Renewable Generation.

6.03. This Agreement supersedes and replaces any previous Tri-Party Net Metering Power Purchase Agreement among FMPA, Utility and RGS Owner for the net metering of customer-owned renewable generation at the Premises.

Section 7. Miscellaneous Provisions

7.01. Assignment. It is understood and agreed that no party may transfer, sell, mortgage, pledge, hypothecate, convey, designate, or otherwise assign this Agreement, or any interest herein or any rights or obligations hereunder, in whole or in part, either voluntarily or by operation of law, (including, without limitation, by merger, consolidation, or otherwise), without the express written consent of the other parties (and any such attempt shall be void), which consent shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

7.02. Indemnification. To the fullest extent permitted by laws and regulations, RGS Owner shall defend, indemnify, and hold harmless FMPA and Utility, their officers, directors,

agents, guests, invitees, and employees from and against all claims, damages, losses to persons or property, whether direct, indirect, or consequential (including but not limited to fees and charges of attorneys, and other professionals and court and arbitration costs) arising out of, resulting from, occasioned by, or otherwise caused by the operation or misoperation of the customer-owned renewable generation, or the acts or omissions of any other person or organization directly or indirectly engaged by the RGS Owner to install, furnish, repair, replace or maintain the customer-owned renewable generation system, or anyone for whose acts any of them may be liable.

7.03. Governing Law. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed and construed in accordance with the laws of the State of Florida without regard for any conflicts of law provisions that might cause the law of other jurisdictions to apply. All controversies, claims, or disputes arising out of or related to this Agreement or any agreement, instrument, or document contemplated hereby, shall be brought exclusively in the County or Circuit Court for Monroe County, Florida, or the United States District Court sitting in Monroe County, Florida, as appropriate.

7.04. Enforcement of Agreement. In the event that any party to this Agreement is required to enforce this Agreement by court proceedings or otherwise, the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorney's fees and costs for trial, alternative dispute resolution, and/or appellate proceedings.

7.05. Severability. To the extent any provision of this Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

7.06. Third Party Beneficiaries. This Agreement is solely for the benefit of FMPA, Utility, and RGS Owner and no right nor any cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person or corporation other FMPA, Utility, or RGS Owner, any right, remedy, or claim under or by reason of this Agreement or any of the provisions of conditions of this Agreement; and, all provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and be binding upon FMPA, Utility, and RGS Owner and their respective representatives, successors, and assigns.

IN WITNESS WHEREOF, RGS Owner and Utility have executed this Agreement the day and year first above written.

**UTILITY BOARD OF THE CITY OF KEY WEST
DBA KEYS ENERGY SERVICES**

By: _____

Title: _____

Date: _____

FLORIDA MUNICIPAL POWER AGENCY

By: _____

Title: _____

Date: _____

RGS OWNER

By: _____
(Signature)

(Print Name)

(RGS Owner Account Number) [if applicable]

Date: _____

**Tri-Party Net Metering Power Purchase Agreement
Schedule A**

I. All-Requirements Project Calculation of Excess Customer-Owned Renewable Generation Credit

- a) FMPA shall pay Utility for the excess kWh energy delivered by customer-owned renewable generation to Utility's electric system. Every month, Utility shall determine the total kWh of customer-owned renewable generation that is delivered to Utility's electric system, and shall send the information to FMPA as soon as it becomes available, but no later than the 2nd working day of every month. FMPA will then provide a monthly payment to Utility in the form of a credit on the ARP power bill for the excess energy delivered to the distribution grid. The ARP Renewable Generation Credit will be calculated as follows:

ARP Renewable Generation Credit = Quarterly Energy Rate * Monthly kWh of excess customer-owned renewable generation

Quarterly Energy Rate = 3 month average of ARP energy rate. FMPA will update the Quarterly Energy Rate every April 1, July 1, October 1 and January 1.

- b) As part of the monthly bill adjustment, FMPA will also increase Utility's kWh billing amount by the same kWh amount as the customer-owned renewable generation purchased by FMPA. This adjustment is necessary because excess customer generation that flows onto Utility's system has been purchased by FMPA, but will remain on Utility's system and be used by Utility to meet its other customers' electric needs. As a result, Utility's monthly ARP bill will be adjusted accordingly to reflect FMPA's subsequent sale of this energy to Utility.

II. Payment for Unused Excess Energy Credits

- a) Monthly excess energy credits shall accumulate and be used to offset the RGS Owner's following month energy consumption bill in accordance with the Utility's Net Metering Service Rate Schedule.