

RATE SFS SOLAR FOR SCHOOL POWER PURCHASE AGREEMENT -- EXHIBIT A

**CONTRACT FOR THE
PURCHASE OF ENERGY
FROM A SOLAR FOR SCHOOLS FACILITY**

BETWEEN

AND

MISSISSIPPI POWER COMPANY

Dated as of _____

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**CONTRACT FOR THE PURCHASE OF ENERGY
FROM A SOLAR FOR SCHOOLS FACILITY**

This Contract for the Purchase of Energy from a Solar for Schools Facility (“Agreement”) is made and entered into as of the _____ day of _____, 20__ (“Effective Date”), by and between **MISSISSIPPI POWER COMPANY**, a corporation organized and existing under the laws of the State of Mississippi (“Mississippi Power” or “Buyer”), and _____, a _____ organized and existing under the laws of the State of _____ (“Generator”).

WITNESSETH:

WHEREAS, Generator intends to construct, own, operate and maintain a solar facility for the generation of electric power in _____ County, Mississippi for the benefit of the _____ School District (“School District”) pursuant to the terms and conditions of Rate SFS;

WHEREAS, the Parties desire to set forth the terms and conditions upon which such sale of electric energy, and the provision of Electrical Products and Environmental Attributes, shall be conducted between the Parties.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, Mississippi Power and Generator, each intending to be legally bound, hereby agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** All capitalized terms used herein and not otherwise defined, whether singular or plural, shall have the respective meanings set forth below.

“**AC**” means alternating current.

“**Adjustment Period**” has the meaning set forth in Section 5.4.

“**Affiliate**” means, for any specific Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“**Agreement**” has the meaning set forth in the first paragraph hereof.

“**Business Day**” means any Day excluding Saturday and Sunday and excluding any Day on which banking institutions in Gulfport, Mississippi are closed because of a federal holiday.

“Central Prevailing Time” or **“CPT”** means the local time at any point in Gulfport, Mississippi.

“Confidential Information” has the meaning set forth in Section 13.1.

“Consents” means all approvals, consents, permits, licenses, decrees, orders, judgments, certificates, zoning and other variances, waivers, exceptions, exemptions, franchises, rulings, authorizations or similar orders from, or filings or registrations with or notices to, any Governmental Authority that are required to own, develop, site, construct, operate, use, test, modify, and/or maintain the Facility and the Site, and for Generator to perform its obligations under this Agreement.

“Day” means a calendar day.

“DC” means direct current.

“Delivered Energy” means, for any Hour, the amount of energy (expressed in kWh or MWh) that is produced by the Facility and delivered by Generator to Mississippi Power at the Point of Interconnection pursuant to this Agreement; provided that Delivered Energy shall not include: (i) Electrical Losses; or (ii) energy that Mississippi Power is not required to receive or purchase under Section 6.1.2

“Effective Date” has the meaning set forth in the first paragraph of this Agreement.

“Electric System” means, collectively, the entire network of electric generating, transmission and distribution facilities, equipment and other devices owned (in whole or in part) or controlled by Mississippi Power or its Affiliates, or to which Mississippi Power or its Affiliates has the right to use, for the purposes of generating, transmitting, distributing, and receiving electric energy.

“Electrical Losses” means all electrical losses associated with the delivery of energy produced by the Facility to the Point of Interconnection, including all electrical losses over distribution and transmission facilities prior to the Point of Interconnection and those related to transformation prior to the Point of Interconnection.

“Electrical Products” means any products produced by or related to the Facility, other than the electrical energy produced by the Facility, including electric capacity, spinning reserves, operating reserves, balancing energy, regulation service, reactive power and voltage control and other ancillary service products.

“Environmental Attributes” means, whether existing as of the Effective Date or in the future, any fuel-related, emissions-related, air quality-related or other environmental-related aspects, claims, characteristics, benefits, credits, reductions, offsets, savings, allowances, efficiencies, certificates, tags, attributes or similar products or rights (including all of those relating to greenhouse gases and all green certificates, green tags, renewable certificates and renewable energy credits) (“Attributes”), howsoever entitled, whether known or unknown, whether or not such Attributes have been certified or verified under any renewable energy standards or criteria or otherwise, and whether or not such Attributes could qualify or do qualify for application toward compliance with any public, private, local, state, federal and/or international renewable energy related standard, program, law, policy, or contract, that: (i) arise or result from the generation of electric, thermal or other energy by the Facility; (ii) are associated with fuel that is used to produce electric, thermal or other energy at the Facility (including any fuel that may serve a dual purpose of contributing both to energy production and another industrial process), including the procurement, collection or aggregation of such fuel; (iii) arise or result from the avoidance or reduction of the emission of any gas, chemical or other

substance to the air, soil or water that is attributable to the generation of electric, thermal or other energy by the Facility or the use of a particular fuel by the Facility to generate electric, thermal or other energy; (iv) arise or result from the recycling, recovery or reuse of any wastes, products, co-products, byproducts or similar materials associated with the generation of electric, thermal or other energy by the Facility; or (v) arise or result from the avoidance of water use that is associated with the generation of electric, thermal or other energy at the Facility. Environmental Attributes shall not include any tax credit (including federal investment tax credits) derived from the construction or ownership of the Facility.

“Event of Default” has the meaning set forth in Section 10.1 for Generator and Section 10.2 for Mississippi Power.

“Facility” means the solar electric generation facility and all related equipment and structures associated with such generation facility to be constructed by Generator in [City], [State], with a nameplate capacity equal to ___ kW DC. The Facility shall include all equipment and facilities installed, owned and operated at the Site by the Generator that are necessary or used for the production, control, delivery or monitoring of electric energy.

“FERC” means the Federal Energy Regulatory Commission or any Governmental Authority succeeding to the powers and functions thereof.

“Force Majeure Event” has the meaning set forth in Section 12.1.

“Generator” has the meaning set forth in the first paragraph of this Agreement, and its permitted successors and assigns.

“Governmental Authority” means any local, state, regional or federal administrative, legal, judicial or executive agency, court, commission, department or other such entity.

“Hour” means one (1) of the twenty-four (24) clock-hours of a Day.

“Initial Delivery Criteria” means the fulfillment of all the following criteria to Mississippi Power’s reasonable satisfaction:

- (i) The Facility has been interconnected to the Electric System pursuant to the Interconnection Agreement, the Interconnection Agreement is in full force and effect, and Generator and the Facility are in compliance with the Interconnection Agreement;
- (ii) Generator shall have demonstrated that: (a) the construction and installation of solar photovoltaic modules and inverters and all other equipment and facilities comprising the Facility (as opposed to only a portion thereof), representing a total completed and installed nameplate capacity, is complete; and (b) such modules and inverters are capable of reliably producing electric energy and reliably delivering such electric energy to the Electric System through the Point of Interconnection, which demonstration shall include the delivery to Buyer of either (1) commissioning certificates executed by the applicable inverter manufacturer and/or installation contractor for all such inverters in form and substance reasonably satisfactory to Buyer, or (2) data from the metering equipment installed by Buyer that evidences the delivery of electrical energy produced by the Facility to the Point of Interconnection; and
- (iii) Generator shall have demonstrated that it has obtained all authorizations necessary to deliver energy from the Facility under this Agreement to the Electric System.

“Initial Delivery Date” means the Day on which all Initial Delivery Criteria are satisfied.

“Initial Period” means the period equal to twenty-five (25) years from the Initial Delivery Date.

“Interconnection Agreement” means an agreement by and between Generator and the Interconnection Provider providing Generator the right to interconnect the Facility to the Electric System and containing terms and conditions governing the interconnection and parallel operation of the Facility with such system.

“Interconnection Facilities and Upgrades” means those facilities, equipment and upgrades (including any and all distribution and/or transmission system network upgrades) that are located on Interconnection Provider’s side of the Point of Interconnection and that are required in order to interconnect the Facility at the Point of Interconnection, which would not have been required but for the interconnection of the Facility to the Electric System (including all breakers and metering equipment needed for interconnection), as such facilities, equipment and upgrades are set forth and identified in the Interconnection Agreement.

“Interconnection Provider” means Mississippi Power.

“Interest Rate” means the prime rate of interest as published from time to time in the *Wall Street Journal* or comparable successor publication.

“kW” means kilowatts.

“kWh” means kilowatt hours.

“Legal Requirement” means any act; statute; law; requirement; ordinance; order; ruling or rule; regulation; standards and/or criteria contained in any permit, license or other approval; legislative or administrative action; or a decree, judgment or order of any Governmental Authority imposed, whether in effect as of the Effective Date or at any time in the future.

“Mississippi Power” has the meaning set forth in the first paragraph of this Agreement, and its permitted successors and assigns.

“Month” means a calendar Month, commencing at the beginning of the first Day of such calendar Month.

“Monthly” has a meaning correlative to that of Month.

“Monthly Statement” has the meaning set forth in Section 8.1.1.

“MPSC” means the Mississippi Public Service Commission, its staff, or any Governmental Authority succeeding to the powers and functions thereof.

“MW” means megawatts.

“MWh” means megawatt hours.

“NERC” means the North American Electric Reliability Corporation, including any successor thereto and subdivisions thereof.

“Party” or “Parties” means either Mississippi Power or Generator or both.

“Person” means any person, corporation, limited liability company, general partnership, limited partnership, proprietorship, other business organization, trust, union, association or Governmental Authority.

“Point of Interconnection” means the point where Generator’s interconnection equipment physically connects with Mississippi Power’s Electric System, as defined in the Interconnection Agreement. The Point of Interconnection is not necessarily the same as the point where the change of ownership occurs.

“Prudent Industry Practices” means, at a particular time, any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry prior to such time, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired results at the lowest cost consistent with good and acceptable engineering and business practices, reliability, safety and expedition. Prudent Industry Practices are not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to encompass a spectrum of possible practices, methods or acts expected to accomplish the desired results, having due regard for, among other things, manufacturers’ warranties, any applicable inspection authorities, and the requirements of Governmental Authorities of competent jurisdiction and the requirements of this Agreement.

“Rate SFS” means “Rate SFS– Solar for Schools” or any successor in function applicable to the rates to be paid for energy delivered to Mississippi Power by Facilities of a size and kind more fully described in Rate SFS, as filed by Mississippi Power with and approved by the MPSC and as same may be modified from time to time.

“Rate Rider” means the schedules of retail electric service tariffs and rates, as filed by Mississippi Power with and approved by the MPSC and as may be modified from time to time.

“Representatives” means, when used with respect to a Party, collectively or individually (as the context might indicate), such Party, its Affiliates and permitted successors and assigns, and the directors, officers, representatives, agents, contractors, subcontractors, and employees of each of them.

“Required Commercial Operation Date” is the commercial operation date agreed upon by the Parties and set forth in Exhibit A to the Interconnection Agreement, as such commercial operation date may be subsequently modified pursuant to the terms of this Agreement or the Interconnection Agreement.

“Rules” means collectively: (i) Mississippi Power Company’s Rules Governing Electric Service; (ii) the MPSC’s Public Utilities Rules of Practice and Procedure; (iii) the MPSC’s Rules and Regulations Governing Public Utility Service; (iv) the Mississippi Distributed Generation Rule; and (v) the Mississippi Distributed Generator Interconnection Rule; or any successor in function of any of the above Rules and as may be modified from time to time.

“School District” means the public K-12 school district that is an existing retail customer of Mississippi Power that has executed a Solar for Schools Agreement with Generator related to the Facility.

“SERC” means the SERC Reliability Corporation, including any successor thereto and subdivisions thereof.

“Site” means the land on which the Facility is located.

“Solar for Schools Agreement” means the agreement between Generator and School District executed in compliance with the terms of Rate SFS.

“Station Service” has the meaning set forth in Section 4.4.

“Tax” means any or all ad valorem, property, occupational, severance, emissions, carbon generation, first use, conservation, energy, transmission, utility, gross receipts, privilege, sales, use, excise and other taxes, fees, assessments, licenses, taxes based

on net income or net worth, and any other charges imposed by a Governmental Authority, together with any interest and penalties thereon.

“Tax Credits” means any and all (i) investment tax credits; (ii) production tax credits; and (iii) similar tax credits or grants under federal, state, or local law relating to the construction, ownership or production of energy from the Facility.

“Term” has the meaning set forth in Section 3.2, as may be extended pursuant to Section 3.2.

1.2 Interpretation. Whenever the term “including” is used herein in connection with a listing of items included within a prior reference, such listing shall be interpreted to be illustrative only, and shall not be interpreted as a limitation on or exclusive listing of the items included within the prior reference. Any reference in this Agreement to “Section,” “Article,” or “Appendix,” shall be references to this Agreement unless otherwise stated, and all such Appendices shall be incorporated in this Agreement by reference. Unless specified otherwise, a reference to a given agreement or instrument, and all schedules, exhibits, appendices and attachments thereto, shall be a reference to that agreement or instrument as modified, amended, supplemented and restated, and in effect from time to time. Unless otherwise stated, any reference in this Agreement to any entity shall include its permitted successors and assigns, and in the case of any Governmental Authority, any entity succeeding to its functions and capacities.

ARTICLE 2

DEVELOPMENT OF THE FACILITY

2.1 Standard for Development. Generator shall design, engineer, construct, test and commission the Facility in accordance with Prudent Industry Practices and applicable Legal Requirements. In compliance with the MPSC’s Rules, Generator shall construct the Facility such that the nameplate direct current capacity of the Facility shall not exceed the lesser of (1) 110% of the highest aggregate annual peak demand (average kW during the fifteen-minute period of greatest use) measured from all of the School District’s meters served by Mississippi Power in the calendar year preceding the year of submittal of the interconnection request; or (2) 3 MW.

2.2 Status of the Facility. No later than the end of each Month prior to the Initial Delivery Date, Generator shall deliver a written report to Mississippi Power describing the progress of development and construction of the Facility, including the estimated date that mechanical completion will occur and the estimated date that the Facility will initially synchronize to the Electric System.

ARTICLE 3

INITIAL DELIVERY DATE; TERM AND TERMINATION; MPSC APPROVAL

3.1 Initial Delivery Date; Failure to Achieve Initial Delivery Date

3.1.1 Generator shall notify Mississippi Power of the estimated Initial Delivery Date at least forty-five (45) Days prior to such date or such shorter period as the Parties may agree.

3.1.2 In the event that Generator believes that all of the Initial Delivery Criteria have been achieved, Generator shall provide Mississippi Power notice thereof.

3.1.3 After the Initial Delivery Criteria have been satisfied, Generator shall provide Mississippi Power with at least fifteen (15) Days prior notice of the actual Initial Delivery Date or such shorter period as the Parties may agree.

3.1.4 In the event that the Initial Delivery Date does not occur within ninety (90) days after the Required Commercial Operation Date (as same may be amended by the terms of the Interconnection Agreement), then this Agreement shall terminate without further action by the Parties. Generator shall be entitled to extend the Required Commercial Operation Date on a Day-for-Day basis up to the period of any delay in achieving the Initial Delivery Criteria that is caused by a Force Majeure Event that cannot be overcome by Generator by using commercially reasonable efforts to revise or rearrange Generator's construction schedule; provided that such efforts under this Section 3.1.4 shall not be deemed to require Generator to bear any increased costs or expenses. In the event that Generator extends the Required Commercial Operation Date by more than three hundred sixty-five (365) Days pursuant to this Section 3.1.4, Buyer shall be entitled to terminate this Agreement at any time thereafter upon written notice to Generator. Upon such termination, neither Party shall have any further obligation under this Agreement, except for obligations and liabilities that survive termination as provided in this Agreement or which accrue prior to or at termination.

3.2 Term. This Agreement shall become effective as of the Effective Date. Subject to early termination of this Agreement, the "Term" of this Agreement shall begin on the Initial Delivery Date and shall continue until the end of the Initial Period. The Term of this Agreement may only be extended by mutual written agreement of the Parties

3.3 Early Termination by Generator. Generator may terminate this Agreement at any time in its sole and absolute discretion by providing Mississippi Power at least thirty (30) Days' written notice prior to the effective date of such termination. Generator's exercise of its early termination rights under this subsection is subject to any other rights, obligations or penalties that may exist under any other contract or agreement related to the Facility.

3.4 [RESERVED]

3.5 Survival. All provisions of this Agreement that expressly or by implication come into or continue in force and effect following the expiration or termination of this Agreement shall remain in effect and be enforceable following such expiration or termination, including all provisions that must survive in order to give force and effect to the rights and obligations of the Parties under this Agreement.

3.6 MPSC Approval. To the extent required by law, this Agreement is subject to approval or prior authorization and ratification by the MPSC, and any modifications that may be ordered by the MPSC at the time of approval or in the future.

ARTICLE 4

OPERATIONAL CONSIDERATIONS

4.1 General Standards. In furtherance of the safety and reliability of the Electric System, Generator shall at its sole cost and expense manage, control, construct, operate and maintain the Facility (or cause others to manage, control, construct, operate and maintain the Facility) in a manner consistent with Prudent Industry Practices, applicable Legal Requirements, and applicable reliability standards and operating policies of NERC and SERC. Generator shall also diligently seek, obtain, maintain, comply with and, as necessary, renew and modify from time to time, any and all Consents. Generator shall designate one or more representatives that Mississippi Power may contact regarding any operational matter relating to the Facility and provide Mississippi Power with contact information (including telephone number and email address) for such representatives.

4.2 Scheduled Outages. Generator shall submit to Mississippi Power, before October 1 of each calendar year, a schedule of planned Facility outages during the next calendar year, as well as any updates to such schedule as they become known.

4.3 Unplanned Outages. In addition to scheduled outages under Section 4.2, Generator shall use commercially reasonable efforts to immediately notify Mississippi Power of any event or condition that will result in any portion of the Facility not being able to produce energy. Such notices shall contain information describing such event or condition, the beginning date and time of such event or condition, the expected end date and time of such event or condition, the amount of Delivered Energy that Generator expects will be provided during such event or condition, and any other information reasonably requested by Mississippi Power. Generator shall provide Mississippi Power with such notice by any reasonable means required by Mississippi Power, including by telephone or electronic mail.

4.4 Station Service. If Generator is located in the service territory of Mississippi Power, Generator shall be required to enter into a separate agreement with Mississippi Power for the supply of electrical energy necessary to serve the electrical requirements of the Facility ("Station Service") pursuant to the applicable Rate Riders and the Rules; provided that Generator shall not be required to procure firm back-up power from Mississippi Power.

4.5 Weather Data. At Mississippi Power's direction, Generator shall make available, in a form reasonably acceptable to Mississippi Power, all data from any weather monitoring portals and/or weather stations that Generator elects to install at the Site.

4.6 Inspection and Access. Mississippi Power shall have the right to inspect the Facilities to ensure compliance with the terms and conditions of this Agreement. Generator shall grant Mississippi Power reasonable access to the Facilities sufficient for Mississippi Power to enforce any rights under this Agreement.

ARTICLE 5

INTERCONNECTION AND METERING

5.1 Interconnection.

5.1.1 As of the Effective Date, Generator has submitted, pursuant to the applicable interconnection process of the Interconnection Provider, a request to interconnect the Facility to the Buyer Electric System. Generator shall maintain and use diligent efforts to pursue interconnection of the Facility to the Electric System in accordance with the interconnection process of the Interconnection Provider, including the timely execution and submission of all required study agreements, fees, deposits and other charges. Generator shall be responsible for all costs and expenses associated with all studies, fees, deposits and other charges in connection with such interconnection request.

5.1.2 The Interconnection Agreement shall contain terms, conditions and requirements pursuant to the interconnection policies and requirements of the Interconnection Provider and its Affiliates. Pursuant to the Interconnection Agreement, Generator shall be responsible for all costs and expenses that are associated with the ownership, design, engineering, procurement, construction, installation, operation, maintenance, repair and replacement of all Interconnection Facilities and Upgrades.

5.1.3 The Interconnection Agreement shall be maintained throughout the Term of this Agreement. Generator shall promptly provide a copy of, and any amendments to, such Interconnection Agreement to Mississippi Power in accordance with the notice provisions of Section 13.13. Generator is responsible for determining all transmission and/or distribution-related rules, practices and policies with which it must comply.

5.1.4 It is the responsibility of Generator to provide for the protection of the Facility from hazards resulting from parallel operation with Mississippi Power's Electric System. Mississippi Power does not guarantee that service will be free from, and Mississippi Power shall not be liable for, interruptions, surges, voltage fluctuations or disturbances. Mississippi Power shall have not liability for any loss or damage resulting from interconnection to Mississippi Power's Electric System or from any loss of service, or delay in providing service.

5.2 Metering.

5.2.1 At Generator's sole cost and expense, Mississippi Power or its Affiliate may design, locate, construct, install, own, operate and maintain meters and

such other facilities, equipment and devices as Mississippi Power deems necessary or appropriate in order to determine the amount of electric energy delivered by Generator to Mississippi Power under this Agreement, including for purposes of calculating the payments under **Appendix A** or **Appendix B**, as applicable, or to determine the amount of electric energy delivered by Mississippi Power to Generator, all in accordance with Prudent Industry Practices.

5.2.2 All meters and other such facilities, equipment and devices installed by Mississippi Power shall be and remain the property of Mississippi Power. Any charges paid by Generator for any facilities or equipment provided by Mississippi Power or for any work performed by Mississippi Power shall not convey title to Generator for such facilities and equipment.

5.3 Inspection and Testing of Meters. Mississippi Power or its Affiliate shall have the right to inspect and test all meters installed by Mississippi Power or its Affiliate in order to measure the output of the Facility at such times as Mississippi Power deems necessary or appropriate. Upon reasonable written request to Mississippi Power, Generator may request inspection or testing of any such meters. Generator shall be responsible for, and shall reimburse Mississippi Power for, all costs and expenses incurred by or on behalf of Mississippi Power or its Affiliate in connection with such inspections or tests requested by Generator unless such inspection or test reveals that such meters are inaccurate by more than two percent (2%) from the measurement made by the reference meter used in the test, in which event Mississippi Power shall bear all costs of such testing. Mississippi Power shall give reasonable written notice to Generator of the time and place when any such meter is to be inspected or tested, and Generator may have a representative present at such test or inspection.

5.4 Inaccuracies. If any seal securing the metering is found broken, if the metering fails to register, or if the measurement made by a metering device is found upon testing to vary by more than the allowable margin of metering error (as reflected in the rules and regulations of the MPSC), based upon the measurement made by the reference meter used in the test, an adjustment shall be made correcting all measurements of electric energy made by the metering during: (i) the actual period when inaccurate measurements were made by the metering, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if such actual period cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the metering to the date such failure is discovered or such test is made ("Adjustment Period"). If the Parties are unable to agree on the amount of the adjustment to be applied to the Adjustment Period, the amount of the adjustment shall be determined (a) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation, or (b) if not so ascertainable, by estimating on the basis of deliveries under similar conditions during the period since the last test. Within thirty (30) Days after the determination of the amount of any adjustment, Mississippi Power shall either (a) pay Generator any additional amounts then due for deliveries of electric energy during the Adjustment Period in accordance with **Appendix A** or **Appendix B**, as applicable, or (b) be entitled to a credit against any subsequent payments for electric energy, as appropriate.

5.5 Electrical Loss Factor Adjustment to Point of Interconnection. In the event, and to the extent, that the meters used to determine the output of the Facility are not measuring deliveries of electric energy physically at the Point of Interconnection, the metered amount of electric energy shall be adjusted to or from the Point of Interconnection (as applicable) by a loss factor determined by Mississippi Power, in accordance with Prudent Industry Practices. Mississippi Power shall provide Generator with a copy of any study or analysis prepared by Mississippi Power in determining such loss factor.

ARTICLE 6

PURCHASE AND SALE OF ENERGY

6.1 Sale and Purchase of Energy.

6.1.1 Commencing on the Initial Delivery Date and thereafter for the Term, subject to the terms and conditions of this Agreement, Generator shall sell and deliver to Mississippi Power, and Mississippi Power shall purchase and receive from Generator, all Delivered Energy, with Mississippi Power's payment obligation to Generator and School District determined pursuant to Section 8.1.

6.1.2 Mississippi Power shall not be required to receive, purchase or compensate Generator for energy not delivered or produced by the Facility as a result of: (i) the separation of the Facility from the Electric System pursuant to the Rules; (ii) a Force Majeure Event affecting the facilities or equipment of either Party; or (iii) the interruption of deliveries or disconnection of the Facility pursuant to the Interconnection Agreement.

6.2 Exclusivity. From the Effective Date and throughout the Term, Mississippi Power shall have exclusive rights to the entire electrical output at the Point of Interconnection to the Facility, and Generator shall not sell, supply or otherwise provide electrical energy from the Facility to any other Person(s). In addition, except for energy used for operating the electric equipment comprising the Facility (which energy is not provided by the agreement contemplated by Section 4.4, hereof), without prior written approval of Buyer, Generator will not itself utilize any electrical output or Electrical Products from the Facility for any purpose, including any industrial, processing or other purposes on-site or at an adjacent site. Furthermore, Buyer shall have exclusive rights to all Environmental Attributes, which shall include the exclusive right to: (i) claim that the energy associated with such Environmental Attributes was generated from a renewable type of fuel; (ii) report that it owns the Environmental Attributes to any Governmental Authority or other Person for compliance with any Legal Requirement or other purposes; (iii) claim the ownership of Environmental Attributes and reference the renewable nature of the energy that was generated with the Environmental Attributes to customers or potential customers for purposes of marketing and advertising; and (iv) sell or transfer such Environmental Attributes to any other Person.

6.3 Electrical Products. The payments under this Agreement constitute full and complete compensation for all energy provided to Mississippi Power, as well as for Electrical Products that are inherently embedded in or connected with such energy. Mississippi Power shall not be required to accept or pay for any Electrical Products, if any, produced by or related to the Facility, and Generator shall not seek separate or additional compensation from Mississippi Power for any such Electrical Products under this Agreement or any other agreement, tariff or rate schedule or filing with any Governmental Authority.

6.4 Point of Delivery; Title. Generator shall deliver energy from the Facility to Mississippi Power at the Point of Interconnection. Title to such electric energy shall pass from Generator to Mississippi Power at the Point of Interconnection. Generator covenants that it shall have good and marketable title to all energy delivered to Mississippi Power at the Point of Interconnection and that it has the right to, and will, sell and deliver such energy to Mississippi Power free and clear of all liens and encumbrances.

6.5 Provision of Environmental Attributes. This Section 6.5 shall only apply so long as a Solar for School Agreement remains in effect for the Facility. From and after the date of expiration or termination by either party of the Solar For School Agreement, Generator shall retain the ownership and use of any and all Environmental Attributes created, produced or commencing to exist with respect to the Facility.

6.5.1 In consideration of the purchase of any energy under **Appendix A** of this Agreement, as soon as reasonably practicable after the end of each Month of the Term (commencing with the Month in which the Facility commences to generate energy) (but by no later than thirty (30) Days after the end of each Month), Generator shall transfer, deliver and otherwise provide to Buyer all Environmental Attributes created, produced or commencing to exist during such Month, including all Environmental Attributes associated with energy produced by the Facility that is not delivered to Buyer at the Point of Interconnection. Generator covenants that it shall have good and marketable title to all Environmental Attributes and that it has the right to, and shall, deliver and provide all Environmental Attributes (and all right, title and interest to such Environmental Attributes) to Buyer free and clear of any liens and encumbrances whatsoever. Buyer shall have the right to sell or otherwise transfer to any Person any or all of the Environmental Attributes. Generator shall not be entitled to separate or additional compensation for Environmental Attributes beyond the Monthly Energy Payment and prices for energy under Section 6.1, as calculated in accordance with this Agreement.

6.5.2 During the Term of this Agreement and for as long as a Solar For School Agreement remains in effect, Generator shall take all actions and execute all documents or instruments as reasonably necessary to effectuate the transfer and delivery of Environmental Attributes to Buyer for Buyer's sole benefit (including Buyer's right to sell or transfer such Environmental Attributes) during the Service Term, which actions shall include the following:

6.5.2.1 Generator shall provide to Buyer all information in Generator's possession or that can be reasonably ascertained pertaining to the Environmental Attributes, including any and all certificates, verifications, attestations and other documentation.

6.5.2.2 Generator shall maintain and provide to Buyer (or, if directed by Buyer, other applicable Persons) such information in Generator's possession or that can be reasonably ascertained as may be reasonably necessary to transfer, substantiate, account for, and/or track the quantity of Environmental Attributes under this Agreement, including the information necessary for Buyer to comply with the requirements of any Governmental Authority or other certifying, tracking, or standard-setting body relating to the Environmental Attributes to be provided under this Agreement. Generator shall provide Buyer with attestations regarding the accuracy of such information as reasonably requested by Buyer.

6.5.2.3 Generator shall take such actions as may be reasonably required in order for the Facility to provide Environmental Attributes that qualify for use by Buyer and its Affiliates in satisfying any Renewable Standards.

6.5.2.4 Generator shall cooperate with Buyer and take any actions as may be reasonably required in order to have the Environmental Attributes certified, registered and verified pursuant to Renewable Standards.

6.5.2.5 At Buyer's request, Generator shall take all reasonably necessary action, including the completion and submission of all required attestation forms and other information, in order for Buyer to obtain certification by Green-e Energy pursuant to the Green-e National Standard (or other certification from such other entity designated by Buyer) of the Facility and all Environmental Attributes required to be provided under this Agreement.

6.5.2.6 Generator shall comply with all Legal Requirements and other applicable standards regarding the certification and transfer of Environmental Attributes.

6.5.2.7 Generator shall cooperate with Buyer and take such actions as may be reasonably necessary to allow Buyer to upload Environmental Attributes required to be provided hereunder to any applicable renewable energy registry, certificate tracking system maintained by or for the account of Buyer in order to account for or track Environmental Attributes.

6.5.2.8 Generator shall not take any action that would cause the Environmental Attributes to be retired, double counted, or otherwise utilized (including under the standards established by Green-e, the U.S. Federal Trade Commission, and any other applicable certifying or regulatory organizations).

6.5.2.9 In no way shall the right to, transfer of, or acquisition of Environmental Attributes under this Agreement cause Buyer to be deemed an owner or

operator of the Facility or in any way cause Buyer to be responsible for the Facility's compliance with any Legal Requirements.

6.5.2.10 Buyer shall be responsible for any and all third-party costs incurred by either Buyer or Generator related to the certification and transfer of Environmental Attributes from Generator to Buyer or any other action taken in furtherance of Section 6.5 of this Agreement. Buyer will not pay Generator for any internal administrative costs of Generator incurred in satisfying Generator's obligations under this Section 6.5.

ARTICLE 7

REGULATORY AND COMPLIANCE

7.1 Incorporation of Rules. The Rules are hereby incorporated into and made a part of this Agreement by reference, and Generator shall be deemed to be a "Customer" as such term is used under such Rules. The operation of the Facility and the sale and delivery of energy under this Agreement shall be subject to the terms and conditions of the Rules, including those provisions of the Rules that permit Mississippi Power to separate the Facility from the Electric System under a condition that is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

7.2 [RESERVED].

7.3 [RESERVED].

7.4 Change in Rate Regulation. In the event that the MPSC or another Governmental Authority takes any action, including imposition of a rule, regulation, order or other requirement, which limits, in any way, Mississippi Power's right to full cost recovery of the MEP under this Agreement, then without further action, the pricing under this Agreement shall be calculated pursuant to **Appendix B**.

7.5 Change In Law. Notwithstanding any provision in this Agreement, in the event that there are changes to Legal Requirements or any interpretation thereof, including changes to laws or regulations regulating or imposing a Tax, fee or other charge on discharges, emissions or disposals from the Facility, which cause Generator to incur additional costs or expense associated with the Facility or in performing under this Agreement, Generator agrees to be responsible for all of such costs and expenses and acknowledges that the payments made by Mississippi Power to Generator pursuant to this Agreement shall not be altered as a result of such changes to Legal Requirements or interpretations thereof.

7.6 Compliance. Generator represents, warrants, and covenants that throughout the Term Generator shall: (i) be in material compliance with all Legal Requirements with respect to the design, development, construction, ownership, operation and maintenance of the Facility, including all required Consents, and, if applicable, the mitigation of environmental impacts associated with the Facility and

Generator's actions; and (ii) pay all costs, expenses, charges and fees in connection therewith. Upon request by Mississippi Power, Generator shall provide Mississippi Power with copies of all compliance information, including without restriction, copies of the necessary Consents.

7.7 General Services Administration Flow-Down Provisions. Generator shall at all times comply with the provisions of **Appendix D** to this Agreement.

ARTICLE 8

PAYMENT PROCEDURE

8.1 Billing and Payment.

8.1.1 Within a reasonable period of time after the end of each Month during the Term, Mississippi Power or its Affiliate shall provide a statement ("Monthly Statement") containing: (i) the meter readings that measure the amount of Delivered Energy pursuant to this Agreement for such Month; and (ii) the amount of the payments required to be made by Mississippi Power for such Month and the calculation thereof. By no later than the last Day of the Month following each Month for which a Monthly Statement is provided by Mississippi Power, Mississippi Power shall pay to Generator and School District, as applicable, the payments set forth in such Monthly Statement. The Monthly Statement shall be calculated as follows:

8.1.1.1 For every Month that both Rate SFS and the Solar For Schools Agreement is effective for the Facility, in accordance with **Appendix A**;

8.1.1.2 For every Month that either Rate SFS or the Solar For Schools Agreement is not in effect for the Facility, in accordance with **Appendix B**.

8.1.2 Within ten (10) Business Days after providing the Monthly Statement to Generator and School District under Section 8.1.1, except to the extent that Mississippi Power nets amounts payable by Generator and/or School District, as applicable, against amounts payable by Mississippi Power in the Monthly Statement, Mississippi Power or its Affiliate shall provide Generator and/or School District, as applicable, with an invoice stating all amounts, if any, that are required to be paid by Generator and/or School District to Mississippi Power pursuant to the terms of this Agreement. Payment of each such invoice shall be due and payable on or before the twentieth (20th) Day after receipt of such invoice; provided, however, that any amount due pursuant to a provision of this Agreement that provides for a specific period for payment shall be due and payable as set forth in such provision. Notwithstanding anything to the contrary, billing for electric service to Generator and School District governed by any other Mississippi Power rate Schedule except for Rate SFS shall be billed and collected separately and unrelated to any billing and payment related to this Agreement.

8.1.3 If any amount required to be paid under this Agreement is due on a Day other than a Business Day, then payment shall be due on the next succeeding

Business Day. Payments under this Agreement shall be made on or before the date due in immediately available funds through wire transfer of funds or other means acceptable to the Parties. In the event payment is not made on or before the required due date (or, if such date is not a Business Day, the next succeeding Business Day), then interest shall be added to the overdue payment, from the date such overdue payment was due until such overdue payment together with interest is paid, which interest shall be compounded Monthly at the Interest Rate.

8.2 Billing Disputes and Adjustments.

8.2.1 In the event that either Party has a bona fide dispute with the applicable Monthly Statement or invoice submitted under this Agreement, such Party shall provide notice to the other Party that: (i) states the good faith basis for the dispute, (ii) specifies the portion of the amount in dispute, if any, and (iii) provides documentation reasonably supporting the determination of the disputed amount. The Party required to make payment shall be entitled to withhold payment of such disputed amount until the dispute is resolved.

8.2.2 If any overcharge or undercharge in any form whatsoever shall at any time be found and substantiated, and the amounts set forth in the applicable Monthly Statement or invoice therefore has been paid, the Party that has been paid the overcharge shall refund the amount of the overcharge to the other Party, and the Party that has been undercharged shall pay the amount of the undercharge to the other Party, within thirty (30) Days after final determination thereof; provided, however, that no retroactive adjustment shall be made for any overcharge or undercharge unless written notice of the same is provided to the other Party within a period of three hundred sixty-five (365) Days from the date of the Monthly Statement or invoice in which such overcharge or undercharge was first included. Reimbursements determined to be due from a Party under this Section 8.2.2 shall be included on the next Monthly Statement or invoice (as applicable) and shall include interest from the date the original payment was received until the date of such reimbursement together with interest compounded Monthly at the Interest Rate.

8.3 Netting. The Parties hereby agree that they shall discharge all obligations due and owing to each other as of the same date under this Agreement through netting, in which case all amounts owed by each Party to the other Party under this Agreement shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it.

ARTICLE 9

REPRESENTATIONS AND WARRANTIES

9.1 Execution. Each Party represents and warrants to the other Party as of the Effective Date that: (i) it has all the necessary corporate authority (as applicable) and all legal power and authority and has been duly authorized by all necessary corporate action (as applicable) to enable it to lawfully execute, deliver and perform

under this Agreement; and (ii) it is a valid legal entity duly organized and validly existing in good standing under the laws of the state of its formation and is, to the extent required, qualified to do business in the State of Mississippi.

9.2 Binding Obligations. Each Party represents and warrants to the other Party that, as of the Effective Date, this Agreement is the valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance, moratorium or other similar laws affecting enforcement generally, and by equitable principles regardless of whether such principles are considered in a proceeding at law or in equity.

9.3 Execution and Consummation. Each Party represents and warrants to the other Party that, as of the Effective Date, the execution and delivery of this Agreement, the consummation of the transactions contemplated under this Agreement, and the fulfillment of and compliance with the provisions of this Agreement do not and will not conflict with any of the terms, conditions or provisions of its organizational documents or any Legal Requirement applicable to it.

9.4 Disclaimer. Generator understands and agrees that Mississippi Power's review of any material or information related to the Facility or any physical inspection of the Facility conducted by Mississippi Power under any provision of this Agreement is solely for its own information. Any such review or inspection, or any consent to materials, information or plans provided by Generator, shall not be construed as endorsing the design, fitness or operation of the Facility nor as a warranty or guarantee, and in no event shall Mississippi Power be deemed to have accepted any condition of the Facility or any performance by Generator that is not in full compliance with the terms of this Agreement. Generator shall in no way represent to any Person that, as a result of Mississippi Power's receipt and review of any material or information, any inspections by Mississippi Power, or Mississippi Power's execution of this Agreement, that Mississippi Power is responsible for, has endorsed, warranted or otherwise approved any aspect or characteristic of the Facility.

ARTICLE 10

EVENTS OF DEFAULT

10.1 Default by Generator. Any one or more of the following events shall constitute an Event of Default by Generator and shall give Mississippi Power the right, without limitation, to exercise the remedies specified in Section 10.3:

- (i) Generator fails to pay any amount payable by Generator to Mississippi Power under this Agreement when due, which failure has continued for ten (10) Business Days after notice thereof has been given by Mississippi Power to Generator;

- (ii) Generator fails to perform or comply with any other material term or condition of this Agreement and fails to conform to said term and condition within sixty (60) Days after a demand by Mississippi Power to do so; provided, that if the Event of Default cannot reasonably be cured within sixty (60) days, the cure period will be extended for a further reasonable period of time (but not beyond an additional sixty (60) days) if Generator has demonstrated prior to the end of that period that it is diligently pursuing such cure and there is no material adverse effect to Mississippi Power resulting from such extended cure period;
- (iii) Generator fails to comply with the terms and conditions of Section 13.1;
- (iv) Generator becomes insolvent, becomes subject to bankruptcy or receivership proceedings, or dissolves as a legal business entity;
- (v) any representation or warranty of Generator to Mississippi Power is false or misleading in any material respect when made and Generator fails to conform to said representation or warranty within sixty (60) Days after a demand by Mississippi Power to do so; or
- (vi) the Interconnection Agreement is terminated due to an event of default of Generator.
- (vii) Generator sells or supplies energy, Electrical Products, or Environmental Attributes required to be provided to Buyer under Agreement to a Person other than Buyer, or Generator utilizes energy from the Facility for its own industrial or other purposes in violation of Section 6.2 of this Agreement Generator;
- (viii) Generator fails to provide Buyer with Environmental Attributes as required by and in accordance with this Agreement, or any of the representations, warranties or covenants set forth in Section 6.5 are not true and satisfied at any time within sixty (60) Days after a demand by Mississippi Power to do so; provided, that if the Event of Default cannot reasonably be cured within sixty (60) days, the cure period will be extended for a further reasonable period of time (but not beyond an additional sixty (60) days) if Generator has demonstrated prior to the end of that period that it is diligently pursuing such cure and there is no material adverse effect to Mississippi Power resulting from such extended cure period;
- (ix) Generator abandons the development or construction of the Facility prior to the Initial Delivery Date;
- (x) Following the Initial Delivery Date, Facility fails to generate and provide Buyer with Delivered Energy for a period of 120

consecutive days and Generator has failed to provide adequate assurances to Buyer and take sufficient overt action, all in Buyer's sole discretion, demonstrating Generator's intention to timely remedy the cause of the Event of Default.

10.2 Default by Mississippi Power. Any one or more of the following events shall constitute an Event of Default by Mississippi Power and shall give Generator the right, without limitation, to exercise the remedies specified in Section 10.3:

- (i) Mississippi Power fails to pay any amount payable by Mississippi Power to Generator or School District under this Agreement when due, which failure has continued for thirty (30) Days after notice thereof has been given by Generator or School District, as applicable, to Mississippi Power;
- (ii) Mississippi Power fails to perform or comply with any other material term or condition of this Agreement and fails to conform to said term or condition within sixty (60) Days after a demand by Generator to do so; provided, that if the Event of Default cannot reasonably be cured within sixty (60) days, the cure period will be extended for a further reasonable period of time (but not beyond an additional sixty (60) days) if Mississippi Power has demonstrated prior to the end of that period that it is diligently pursuing such cure and there is no material adverse effect to Generator resulting from such extended cure period;
- (iii) Mississippi Power becomes insolvent, becomes subject to bankruptcy or receivership proceedings, or dissolves as a legal business entity; or
- (iv) any representation or warranty of Mississippi Power to Generator is false or misleading in any material respect when made and Mississippi Power fails to conform to said representation or warranty within sixty (60) Days after a demand by Generator to do so.

10.3 Remedies for Events of Default. For any Event of Default specified under Section 10.1 or Section 10.2, the non-defaulting Party may in its discretion terminate this Agreement by giving written notice thereof to the defaulting Party and/or exercise all remedies available at law or in equity.

10.4 Limitation of Liability NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT; PROVIDED, HOWEVER, THAT SUCH

LIMITATION SHALL NOT APPLY IN THE CASE OF AMOUNTS OWED BY MISSISSIPPI POWER TO THIRD PARTIES AND FOR WHICH MISSISSIPPI POWER IS ENTITLED TO INDEMNIFICATION UNDER ARTICLE 11.

ARTICLE 11

INDEMNIFICATION

11.1 Indemnification. Generator shall release, defend, indemnify and hold harmless Mississippi Power and its Representatives, from and against any and all loss, damage, liability, claims, including claims and actions involving injury to or death of any person or damage to property, damages, penalties, demands, fines, forfeitures, suits, actions and causes of action and all costs and expenses incident thereto, including court costs, costs of defense, costs of investigation, settlements, judgments, and attorneys' fees, directly or indirectly resulting from the development, construction, use and operation of the Facility, including those which are alleged to be caused by, arise out of, or are in connection with: (i) Generator's or its Representatives' environmental permitting or Generator's or its Representatives' compliance with any Consent or Legal Requirement; (ii) Generator's, its Representatives', or the Facility's failure to comply with any Consent or Legal Requirement; (iii) Generator's or its Representatives' acts and omissions in connection with the performance, or failure thereof, of obligations or representations and warranties under this Agreement; (iv) any negligent (including strict liability), wanton, or intentional act or omission of Generator, anyone directly or indirectly employed by Generator, specifically including Generator's agents, contractors, and subcontractors; and (v) the performance or non-performance of activities by Generator's contractors and/or subcontractors.

11.2 Procedure. If Mississippi Power becomes entitled to indemnification under Section 11.1 or any other provision of this Agreement, Mississippi Power shall promptly notify Generator of any claim or proceeding in respect of which it is to be indemnified. Such notice shall be given as soon as reasonably practicable after Mississippi Power becomes aware of such claim or proceeding. Failure to give such notice shall not excuse an indemnification obligation. Generator shall assume the defense thereof with counsel designated by Mississippi Power; provided, however, that if the defendants in any such action include both Generator and Mississippi Power, and if Mississippi Power reasonably concludes that there may be legal defenses available to it that are different from or additional to, or inconsistent with, those available to the Generator, Mississippi Power shall have the right to select and be represented by separate counsel, at the expense of Generator. If Generator fails to assume the defense of a claim, the indemnification of which is required under this Agreement, Mississippi Power may, at the expense of Generator, contest, settle, or pay such claim.

11.3 Survival. All provisions of this Article 11 and all other indemnity obligations of the Parties under this Agreement shall survive termination of this Agreement, by default or otherwise, regardless of whether such obligations accrue prior to or after such termination. Generator's indemnity obligations contained in this Agreement shall be independent of and shall not be limited by or limit the obligations of

Generator to procure and maintain insurance as may be required by any other agreement between the Parties.

ARTICLE 12

FORCE MAJEURE

12.1 Force Majeure. For the purposes of this Agreement, a “Force Majeure Event” as to a Party means any occurrence, nonoccurrence or set of circumstances that is beyond the reasonable control of such Party and is not caused by such Party’s negligence or lack of due diligence, including flood, drought, ice, earthquake, windstorm or eruption; fire; explosion; invasion, civil war, commotion or insurrection; sabotage or vandalism; military or usurped power; or act of God or of a public enemy.

12.2 No Breach or Liability. A Party shall be excused from performing its obligations under this Agreement (other than payment obligations) and shall not be liable in damages or otherwise if and to the extent that it is unable to so perform or are prevented from performing by a Force Majeure Event, provided that such Party shall:

- (i) give the other Party notice thereof, followed by written notice if the first notice is not written, as promptly as possible after such Party becomes aware of such Force Majeure Event, describing the particulars of such Force Majeure Event;
- (ii) use its reasonable best efforts to remedy its inability to perform as soon as practicable; provided, however, that this Section 12.2 shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest; provided further, that the settlement of strikes, lockouts or other labor disputes shall be entirely within the discretion of the Party having the difficulty; and
- (iii) when it is able to resume performance of its obligations under this Agreement, give the other Party written notice to that effect.

12.3 Suspension of Performance. The suspension of performance due to a Force Majeure Event shall be of no greater scope and of no longer duration than is required by such Force Majeure Event. No Force Majeure Event shall extend this Agreement beyond its stated Term.

ARTICLE 13

MISCELLANEOUS

13.1 Confidentiality. Generator acknowledges and agrees that the information contained within all Monthly Statements and all invoices under this Agreement, and all amounts paid by the Parties to one another under this Agreement, constitute

confidential and proprietary information of Mississippi Power (“Confidential Information”). During the Term of this Agreement and for a period of two (2) years thereafter, Generator shall not disclose such Confidential Information to any Person except for those of its officers, directors, employees, affiliates and financing parties who agree to maintain the confidentiality of such Confidential Information in accordance with the terms hereof and who need to know the Confidential Information for purposes of performance under this Agreement.

13.2 Assignment. Neither Party shall assign this Agreement or any portion thereof without the prior written consent of the other Party which consent shall not be unreasonably withheld (except that Mississippi Power may assign this Agreement or any portion thereof to any Affiliate of Mississippi Power without the consent of Generator); provided further, that: (i) any assignee shall expressly assume assignor’s obligations under this Agreement, (ii) assignee must meet qualification requirements as provided in Rate SFS, and (iii) unless expressly approved by the other Party to this Agreement, which approval shall not be unreasonably withheld, no assignment, whether or not consented to, shall relieve the assignor of its obligations under this Agreement in the event its assignee fails to perform.

13.3 [RESERVED]

13.4 Taxes.

13.4.1 To the extent imposed by any Legal Requirement of a Governmental Authority, Generator shall pay, or cause to be paid, all Taxes, if any, except federal and state income tax, on or with respect to: (i) the Facility, including its development, permitting, design, engineering, procurement, construction, testing, startup, ownership, leasing, financing, operation, and maintenance; and (ii) the production, sale and provision of energy under this Agreement. It is the intent of the Parties that such Taxes for which Generator is responsible shall include any and all sales, transfer and other similar Taxes on the sale to Mississippi Power of energy under this Agreement, whether such Taxes are imposed on Mississippi Power or Generator.

13.4.2 In the event Mississippi Power is required by law or regulation to remit or pay Taxes that are Generator’s responsibility under this Agreement, Mississippi Power may deduct the amount of any such Taxes from the amounts otherwise due to Generator under this Agreement, provided that if Mississippi Power does not elect to deduct such amount, Generator shall pay such amount to Mississippi Power upon request by Mississippi Power.

13.4.3 Generator shall provide Mississippi Power with all information requested by it for the purpose of reporting payments made pursuant to this Agreement to any federal or state authorities, including a fully completed Form W-9.

13.4.4 Generator is the owner of and is entitled to the benefit of all Tax Credits, and Mississippi Power’s purchase of energy under this Agreement does not

include the right to Tax Credits or any other attributes of ownership and operation of the Facility, all of which shall be retained by Generator.

13.5 Variable Interest Entity. Within five (5) Days after the Effective Date and thereafter on intervals as may be required by Mississippi Power, Generator shall provide Mississippi Power with the Variable Interest Entity ("VIE") information in the form of **Appendix F** attested to and signed by a duly authorized officer of Generator. Generator covenants to promptly notify Buyer following any determination made by Generator or its independent auditor that Generator must be partially or fully deconsolidated from the books of Generator's parent, as the case may be, or any other changes that require reconsideration, including a change in the primary benefactor. Should existing accounting standards be modified or new standards adopted which supersede the standards at the time of execution of this Agreement, then **Appendix F** shall be modified accordingly for Generator and Mississippi Power to account for this arrangement appropriately in their respective books and records. Buyer shall have the right to charge Generator a reasonable administrative fee in the event Mississippi Power determines this Agreement and the transaction contemplated by the Parties herein or together with any other agreements between Generator and Buyer shall cause Generator to constitute a VIE whose assets and liabilities must be consolidated with those of Buyer.

13.6 Governing Law; Venue; Waiver of Jury Trial.

13.6.1 The validity, interpretation and performance of this Agreement, and each of its provisions, shall be governed by the laws of the State of Mississippi, without giving effect to the principles of conflict of laws.

13.6.2 EACH PARTY HERETO HEREBY AGREES THAT THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI AND ANY MISSISSIPPI STATE COURT SITTING IN HARRISON COUNTY, MISSISSIPPI SHALL HAVE EXCLUSIVE JURISDICTION FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS AND RESOLVING ALL DISPUTES ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

13.6.3 EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

13.7 No Partnership. Generator and Mississippi Power do not intend for this Agreement to, and this Agreement shall not, create any joint venture, partnership,

association taxable as a corporation, or other entity for the conduct of any business for profit.

13.8 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon any respective successors and assigns of Generator and Mississippi Power.

13.9 No Third Party Benefit. Nothing in this Agreement shall be construed to create any duty, obligation or liability of Mississippi Power to any person or entity not a party to this Agreement.

13.10 No Affiliate Liability. Notwithstanding any other provision of this Agreement, no Affiliate of Mississippi Power shall have any liability whatsoever for any party's performance, nonperformance or delay in performance under this Agreement.

13.11 No Waiver. Neither Mississippi Power's nor Generator's failure to enforce any provision or provisions of this Agreement shall in any way be construed as a waiver of any such provision or provisions as to any future violation thereof nor prevent it from enforcing each and every other provision of this Agreement at such time or at any time thereafter. The waiver by either Mississippi Power or Generator of any right or remedy shall not constitute a waiver of its right to assert said right or remedy, at any time thereafter, or any other rights or remedies available to it at the time of or any time after such waiver.

13.12 Amendment. This Agreement may be amended by, and only by, a written instrument duly executed by each of Generator and Mississippi Power, which has received all approvals of Governmental Authorities of competent jurisdiction necessary for the effectiveness thereof.

13.13 Notices. Any notice, demand, request, statement, or correspondence provided for in this Agreement, or any notice which a Party may desire to give to the other in connection with this Agreement, shall be in writing (unless otherwise expressly provided by this Agreement) and shall be considered duly delivered when received by overnight delivery by a national and reputable delivery service, at the address(es) and to the attention of the person(s) listed below.

(i) **To Mississippi Power:**

Mississippi Power Company
Attn:
[Address]

with copies to:

Mississippi Power Company
Attn:
[Address]

(ii) **To Generator:**

with a copy to:

unless Mississippi Power or Generator shall have designated a different officer or address for itself by written notice to the other.

13.14 Counterparts; Electronic Copies. This Agreement may be executed by facsimile or PDF (electronic copy) and in counterparts, all of which for all purposes will be deemed to be an original and all of which, taken together, constitute one and the same instrument.

13.15 Articles and Section Headings. The descriptive headings of the various articles and sections of this Agreement have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms or provisions under this Agreement.

13.16 Transfer of Information Acknowledgement. Generator agrees to execute contemporaneously with the execution of this Agreement, the Transfer of Information Acknowledgement attached as **Appendix E**, and Mississippi Power agrees to the limited use and confidential treatment of such information as set forth in **Appendix E**.

13.17 Entire Agreement; No Reliance. This Agreement constitutes the entire understanding between the Parties and supersedes any previous agreements related to the subject matter hereof between the Parties. The Parties have entered into this Agreement in reliance upon the representations and mutual undertakings contained herein and not in reliance upon any oral or written representations or information provided by one Party to the other Party not contained or incorporated herein.

[The next page is the signature page.]

IN WITNESS WHEREOF, Generator and Mississippi Power have caused this Agreement to be executed by their duly authorized representatives on the day and year first above written.

MISSISSIPPI POWER COMPANY

By: _____

Name: _____

Title: _____

[Generator]

By: _____

Name: _____

Title: _____

APPENDIX A

CALCULATION OF SFS MONTHLY PAYMENT OPTION

1. Definitions.

For purposes of this **Appendix A**, in addition to the defined terms in this Agreement, the following terms shall have the meanings set forth below:

“Off-Peak Season” means the Months included in the “Off-Peak Season” (or similar designation) as set forth in the Company’s Basic Avoided Energy Cost Bulletin.

“Off-Peak Season Off-Peak Hours” means, with respect to a given Off-Peak Season Month, all Hours of such Month that are designated as “Off-Peak Hours” (or similar designation) as set forth in the Company’s Basic Avoided Energy Cost Bulletin that applies for such Month, including all of such Hours when Delivered Energy is not provided by Generator.

“Off-Peak Season On-Peak Hours” means, with respect to a given Off-Peak Season Month, all Hours of such Month that are designated as “On-Peak Hours” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month, including all of such Hours when Delivered Energy is not provided by Generator.

“On-Peak Season” means the Months included in the “On-Peak Season” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin Rate SFS.

“On-Peak Season Off-Peak Hours” means, with respect to a given On-Peak Season Month, all Hours of such Month that are designated as “Off-Peak Hours” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month, including all of such Hours when Delivered Energy is not provided by Generator.

“On-Peak Season On-Peak Hours” means, with respect to a given On-Peak Season Month, all Hours of such Month that are designated as “On-Peak Hours” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month, including all of such Hours when Delivered Energy is not provided by Generator.

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2. Pricing.

Mississippi Power shall pay to Generator and School District a Monthly Energy Payment (“MEP”) for each Month of the Term, as determined below. The MEP shall be split between the Generator and School District, as previously agreed to in the Solar For Schools Agreement.

For each On-Peak Season Month, the MEP shall be calculated as follows:

$$\text{MEP} = (\text{On-Peak Energy} * (\text{On-Peak Price} + 4.5 \text{ ¢/kWh})) + (\text{Off-Peak Energy} * (\text{Off-Peak Price} + 4.5 \text{ ¢/kWh}))$$

Where:

On-Peak Energy = the total amount of Delivered Energy (in kWh) for all On-Peak Season On-Peak Hours that occur during the applicable Month.

On-Peak Price = the applicable energy rate (in ¢/kWh) for the On-Peak Season On-Peak Hours, as prescribed by Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month.

Off-Peak Energy = the total amount of Delivered Energy (in kWh) for all On-Peak Season Off-Peak Hours that occur during the applicable Month.

Off-Peak Price = the applicable energy rate (in ¢/kWh) for the On-Peak Season Off-Peak Hours, as prescribed by Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month.

For each Off-Peak Season Month, the MEP shall be calculated as follows:

$$\text{MEP} = (\text{On-Peak Energy} * (\text{On-Peak Price} + 4.5 \text{ ¢/kWh})) + (\text{Off-Peak Energy} * (\text{Off-Peak Price} + 4.5 \text{ ¢/kWh}))$$

Where:

On Peak Energy = the total amount of Delivered Energy (in kWh) for all Off-Peak Season On-Peak Hours that occur during the applicable Month.

On-Peak Price = the applicable energy rate (in ¢/kWh) for the Off-Peak Season On-Peak Hours, as prescribed by Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month.

Off-Peak Energy = the total amount of Delivered Energy (in kWh) for all Off-Peak Season Off-Peak Hours that occur during the applicable Month.

Off-Peak Price = the applicable energy rate (in ¢/kWh) for the Off-Peak Season Off-Peak Hours, as prescribed by Mississippi Power's Basic Avoided Energy Cost Bulletin that applies for such Month.

APPENDIX B

CALCULATION OF AVOIDED COST MONTHLY PAYMENT OPTION

1. Definitions.

For purposes of this **Appendix B**, in addition to the defined terms in this Agreement, the following terms shall have the meanings set forth below:

“Off-Peak Season” means the Months included in the “Off-Peak Season” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin.

“Off-Peak Season Off-Peak Hours” means, with respect to a given Off-Peak Season Month, all Hours of such Month that are designated as “Off-Peak Hours” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month, including all of such Hours when Delivered Energy is not provided by Generator.

“Off-Peak Season On-Peak Hours” means, with respect to a given Off-Peak Season Month, all Hours of such Month that are designated as “On-Peak Hours” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month, including all of such Hours when Delivered Energy is not provided by Generator.

“On-Peak Season” means the Months included in the “On-Peak Season” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin.

“On-Peak Season Off-Peak Hours” means, with respect to a given On-Peak Season Month, all Hours of such Month that are designated as “Off-Peak Hours” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month, including all of such Hours when Delivered Energy is not provided by Generator.

“On-Peak Season On-Peak Hours” means, with respect to a given On-Peak Season Month, all Hours of such Month that are designated as “On-Peak Hours” (or similar designation) as set forth in Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month, including all of such Hours when Delivered Energy is not provided by Generator.

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2. Pricing.

Mississippi Power shall pay to Generator a Monthly Energy Payment (“MEP”) for each Month of the Term, as determined below.

For each On-Peak Season Month, the MEP shall be calculated as follows:

$$\text{MEP} = (\text{On-Peak Energy} * \text{On-Peak Price}) + (\text{Off-Peak Energy} * \text{Off-Peak Price})$$

Where:

On-Peak Energy = the total amount of Delivered Energy (in kWh) for all On-Peak Season On-Peak Hours that occur during the applicable Month.

On-Peak Price = the applicable energy rate (in ¢/kWh) for the On-Peak Season On-Peak Hours, as prescribed by Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month.

Off-Peak Energy = the total amount of Delivered Energy (in kWh) for all On-Peak Season Off-Peak Hours that occur during the applicable Month.

Off-Peak Price = the applicable energy rate (in ¢/kWh) for the On-Peak Season Off-Peak Hours, as prescribed by Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month.

For each Off-Peak Season Month, the MEP shall be calculated as follows:

$$\text{MEP} = (\text{On-Peak Energy} * \text{On-Peak Price}) + (\text{Off-Peak Energy} * \text{Off-Peak Price})$$

Where:

On Peak Energy = the total amount of Delivered Energy (in kWh) for all Off-Peak Season On-Peak Hours that occur during the applicable Month.

On-Peak Price = the applicable energy rate (in ¢/kWh) for the Off-Peak Season On-Peak Hours, as prescribed by Mississippi Power’s Basic Avoided Energy Cost Bulletin that applies for such Month.

Off-Peak Energy = the total amount of Delivered Energy (in kWh) for all Off-Peak Season Off-Peak Hours that occur during the applicable Month.

Off-Peak Price = the applicable energy rate (in ¢/kWh) for the Off-Peak Season Off-Peak Hours, as prescribed by Mississippi Power's Basic Avoided Energy Cost Bulletin that applies for such Month.

APPENDIX C

[Reserved]

APPENDIX D

GENERAL SERVICES ADMINISTRATION FLOW-DOWN PROVISIONS

Mississippi Power is a government contractor under an Areawide Public Utilities Contract with the General Services Administration of the United States Government, and as such, is required to conduct business with entities in compliance with the regulations contained herein. Accordingly, Generator agrees that its performance and the performance of its contractors, subcontractors, vendors and suppliers under this Agreement shall comply with the following Federal Acquisition Regulations which shall be incorporated herein by reference as if set forth herein in full text:

- (i) 52.203-3 Gratuities (APR 1984);
- (ii) 52.203-6 Restrictions on Subcontractor Sales to the Government (SEPT 2006);
- (iii) 52.203-7 Anti-Kickback Procedures (MAY 2014);
- (iv) 52.219-8 Utilization of Small Business Concerns (OCT 2014);
- (v) 52.219-9 Small Business Subcontracting Plan (OCT 2014)
- (vi) 52.222-21 Prohibition of Segregated Facilities (FEB 1999);
- (vii) 52.222-26 Equal Opportunity (MAR 2007);
- (viii) 52.222-37 Employment Reports on Veterans (JUL 2014);
- (ix) 52.222-40 Notification of Employee Rights under the National Labor Relations Act (DEC 2010);
- (x) 52.222-50 Combating Trafficking in Persons (FEB 2009);
- (xi) 52.222-54 Employment Eligibility Verification (AUG 2013); and
- (xii) 52.222-13 Restrictions on Certain Foreign Purchases (JUN 2008)

Upon written request, Mississippi Power will provide the full text of any of the above sections incorporated herein by reference. Generator warrants and represents that neither it nor any of its Affiliates, agents, contractors or subcontractors is debarred, suspended or proposed for debarment as a contractor or subcontractor to any department, agency or other division of the United States Government. In the event that Generator or any of its Affiliates, agents, contractors or subcontractors become debarred, suspended or proposed for debarment during the term of this Agreement, Generator will immediately notify Mississippi Power verbally and in writing.

APPENDIX E

TRANSFER OF INFORMATION ACKNOWLEDGEMENT

_____ (“Generator”) and Mississippi Power Company (“Mississippi Power”) have entered into that certain Contract for the Purchase of Energy from a Solar for Schools Facility (“Agreement”) dated as of _____. The Agreement contemplates that certain information that could be considered to be non-public information that potentially has implications under the Federal Energy Regulatory Commission’s Standards of Conduct will be provided by Generator to Mississippi Power and/or Southern Company Services, Inc., as agent for the transmission owning subsidiaries of The Southern Company (Alabama Power, Georgia Power Company, Gulf Power Company, and Mississippi Power Company). Generator acknowledges that such information is being provided for the purposes of operational implementation and administration of the Agreement (which includes conducting Mississippi Power’s system operations and dispatch functions) and will be utilized by individuals in both Transmission Provider and Energy Affiliate/wholesale marketing unit functions under the Standards of Conduct.

The individuals within The Southern Company organizations indicated above may only use the information for the purpose of implementing and administering the Agreement (including conducting Mississippi Power’s system operations and dispatch functions). Generator understands that such information will not be used or disseminated in any manner contrary to the confidentiality provision(s) in the Agreement or in violation of the Federal Energy Regulatory Commission’s Standards of Conduct. Generator’s provision of this information has not been and is not being provided in exchange for any preferential treatment, either operational or rate-related, by Southern Company Services, Inc. or by any of the transmission-owning subsidiaries of The Southern Company. Generator also acknowledges that Generator is not providing the information under duress or coercion. In accordance with requirements of the Federal Energy Regulatory Commission, Southern Company Services, Inc. may post on OASIS the fact of Generator’s consent to the provision of the information specified above to certain employees that may be employed within organizational units deemed to be Energy Affiliates/wholesale marketing units under the Standards of Conduct.

Acknowledged on behalf of Generator:

By: _____
Name: _____
Title: _____
Date: _____

APPENDIX F

**CERTIFICATION OF WHETHER THE AGREEMENT
WILL REQUIRE DECONSOLIDATION BY Generator WITH RESPECT TO
VARIABLE INTEREST ENTITY**

AGREEMENT – Contract for the Purchase of Energy from a Solar for Schools Facility dated _____, 20__ between Mississippi Power Company (“Buyer”), and _____ (“Generator”) (the “Agreement”). Capitalized terms used herein shall have the meaning assigned in the Agreement.

The undersigned individual, being the Chief Financial Officer of Generator and having responsibilities for financial accounting matters associated with the Agreement, hereby certifies that [at the time of the execution of the Agreement][for the calendar year ending December 31, _____], the Agreement WILL (____)/WILL NOT (____) require the Generator, [at the time of the execution of the Agreement] [at any time over the calendar year covered by this certification], to deconsolidate on its books and records any assets, liabilities, cash flow, profits or losses of Generator as a result of the Mississippi Power being determined to be the primary beneficiary. My determination of the most likely accounting treatment of this transaction results from my personal consideration after necessary discussions with relevant officers of Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 810 Consolidation (formerly FASB Interpretation Number 46(R), Consolidation of Variable Interest Entities) (FASB ASC Topic 810) as modified from time to time, and the following factual matters:

Generator’s accounting policies, procedures, and internal controls are sufficient to provide us with an appropriate basis for confirming the information contained herein.

_____ Yes
_____ No (please explain)

Generator qualifies for one of the scope exceptions listed FASB ASC Topic 810-10-15-12 and 17.

_____ Yes (please explain)
_____ No (please explain)

Generator is financed with equity equal to or greater than ten percent (10%) of the Generator’s total assets (FASB ASC Topic 810-10-25-45).

_____ Yes
_____ No

The Agreement revenues correlate with fluctuations in Generator's operating cash flows (operating expenses).

_____ Yes
_____ No

The Agreement reduces variability in the fair value of Generator's assets, for example by absorbing fuel or electricity price risk.

_____ Yes
_____ No

The Agreement term is for greater than 50% of the remaining economic life of the Facility.

_____ Yes
_____ No

The Agreement is for substantially all of the proposed Generator's productive output.

_____ Yes
_____ No

The Buyer and/or its affiliates participated significantly in the design or redesign of the Generator's Facility.

_____ Yes
_____ No

The percentage that the Facility's fair value represents, of the fair value of the proposed Generator's total assets, is approximately

_____ %

The Facility is essentially the only source of payment for specified liabilities or specified other interest (there is specific debt associated with the Facility).

_____ Yes
_____ No

The above information (and any attachments) has been completed in full and agrees with our records as of the date hereof.

[INSERT NAME OF Generator]

By: _____

Name: _____

Title: _____

Date: _____