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AMENDED AND RESTATED  
TRADEMARK LICENSE AND SERVICES AGREEMENT

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THIS AMENDED AND RESTATED TRADEMARK LICENSE AND SERVICES AGREEMENT (including all exhibits referenced and incorporated herein, collectively, the "Agreement"), is made and entered into as of the 5th day of June, 2008, ("Execution Date"), by and between Green Mountain Energy Company, a Delaware corporation with its principal office located at 300 West 6<sup>th</sup> Street, 9<sup>th</sup> Floor, Austin, Texas 78701 ("Green Mountain"), and Florida Power & Light Company, a Florida corporation with its principal office located at 700 Universe Boulevard, Juno Beach, Florida 33408 ("FPL"). Green Mountain and FPL shall each be referred to as a "Party" and collectively as the "Parties"

FPL and Green Mountain entered into that certain Trademark License and Services Agreement effective as of July 30, 2003 (the "Original Contract") along with that certain Side Letter Agreement with respect to the Original Contract dated as of June 13, 2006, between FPL and Green Mountain ("Side Letter Agreement No. 1") and that certain Side Letter Agreement with respect to the Original Contract by and between FPL and Green Mountain dated as of January 9, 2004 ("Side Letter Agreement No. 2") (collectively, the Original Contract, Side Letter Agreement No. 1 and Side Letter Agreement No. 2, all as amended, shall be referred to as the "Original Contract Documents"). The Parties now desire to amend and restate the Original Contract Documents in their entirety to provide for certain modifications to the scope of the Parties' relationship and respective responsibilities and obligations and pursuant to which Green Mountain shall provide to FPL certain Marketing, Customer Care and advertising services for FPL's Sunshine Energy<sup>SM</sup> program, all as more specifically set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto do hereby agree to amend and restate the Original Contract Documents in their entirety as follows:

- 1.0 Defined Terms As used in this Agreement, with initial or complete capitalization, whether in singular or plural, the following terms have the following defined meaning:
  - 1.1 "Advertising Material(s)" means any and all materials prepared by Green Mountain for dissemination to Customers for the purpose of Marketing, promoting, soliciting and encouraging participation under the Program, including without limitation direct mail solicitations, brochures, newsletters, inserts, snap packs, bangtails, pull-tabs, advertising packages, advertising messages, letter applications, outbound or inbound telemarketing scripts, point of sale materials, website advertisements, electronic solicitations, radio scripts, television scripts, newspaper advertisement, magazine advertisements and related training materials
  - 1.2 "Affiliate" shall mean an entity directly or indirectly controlled by, controlling or under common control with a Party For the purposes of this definition, the term "control" means, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise.
  - 1.3 "Applicable Laws" shall mean all laws, statutes, treaties, rules, codes, ordinances, regulations, permits, official guidelines, certificates, orders, interpretations, licenses, leases and permits of any Governmental or Regulatory Authority, and judgments, decrees, injunctions, writs, orders or like action of any court, arbitrator or other judicial or quasi-judicial tribunal of competent jurisdiction and all requirements of law as it relates to the Program and Services provided hereunder.
  - 1.4 "Assignment Agreement" shall mean that certain Assignment and Consent Agreement, by and between [REDACTED] FPL and Green Mountain, pursuant to which the [REDACTED] Agreement will be assigned by Green Mountain to FPL during the period from the Program Effective Date through July 31, 2013 pursuant to the terms of such agreement.
  - 1.5 "Billing" means the process of collecting and receiving amounts due from Participants.

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creators recognized in non-U.S. jurisdictions, including without limitation any right to retract a work from the public, claim authorship, object to any distortion, mutilation or other modification of a work or any and all similar rights existing under judicial or statutory law of any country or jurisdiction in the world, or under any treaty regardless of whether or not such right is called or generally referred to as a moral right. The term "marketing tactics", as used in this definition, includes without limitation, any financial or marketing models, marketing and sales tools, marketing training methods, marketing scripts, marketing methodologies, sales methodologies and Message Maps, and forms of consulting, employment, services and other contracts, in each case provided in connection with the Marketing of the Program.

1.29 "Interest Rate" means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by Applicable Law.

1.30 "Jointly Owned Intellectual Property" means all Intellectual Property developed, conceived, written, created or first reduced to practice by both of the Parties jointly for FPL's use for the Program in connection with the performance of this Agreement but excluding any Developed Marks and FPL Licensed Intellectual Property and GM Licensed Intellectual Property, as applicable.

1.31 "Liabilities" shall have the meaning as set forth in Section 18.1 below.

1.32 "Licensed Intellectual Property" shall mean FPL Licensed Intellectual Property and/or GM Licensed Intellectual Property, as the context so requires.

1.33 "Licensed Marks" shall mean FPL Licensed Marks and/or GM Licensed Marks, as the context so requires.

1.34 "Market", "Marketed" or "Marketing" shall mean all use of Advertising Materials, mass media activities, Customer communications activities and outreach activities associated with increasing and maintaining participation in the Program by potential and current Customers.

1.35 "Marketing Plan" shall mean the plan, developed by Green Mountain and approved by FPL in writing prior to the Program Effective Date and on an annual basis thereafter for the Term, and as may be amended from time to time by mutual agreement of the Parties in writing, which shall include, but not be limited to, monthly and annual sales and cost per sale targets; churn targets; sales channels operations; Customer retention activities; and the budget of Direct Marketing Costs.

1.36 "Marks" shall mean designated names, symbols, trademarks, service marks, logotypes, trade names and insignias owned respectively by the Parties, their parent, Affiliates or subsidiaries used in connection with the Program or Services.

1.37 "Message Maps" shall mean a document that contains Marketing communication messages and claims that have been approved by both Parties for use in any and all Marketing materials for the Program.


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1.39 "Monthly Program Participation Fee" shall have the meaning set forth in Section 6.1.

1.40 "Monthly Rate" shall mean the Green Pricing Program Rider's monthly rate for Customer participation in the Program, which is subject to change as a result of a rule or order issued by the FPSC. As of the Execution Date, the current Green Pricing Rider Monthly Rate for Customer participation in the Program is \$9.75, which is subject to change as a result of a rule or order issued by the FPSC.

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- 1.41 "Monthly Services Fee" shall have the meaning as set forth in Section 6.1 below.
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- 1.43 "Participant" shall mean those Customers residing in the Service Territory that have both (i) enrolled to participate in or transferred into the Program (including without limitation any Customers which are and have been transferred into the Program at any time from the Sunshine Energy<sup>SM</sup> program under the Original Contract), and (ii) remitted any payment amount which contributed to the Monthly Program Participation Fee, as calculated in accordance with Section 6.1
- 1.44 "Performance Metrics" shall mean the annual program performance growth goals for each applicable calendar year during the Initial Term as set forth on Exhibit B.
- 1.45 "Personal Information" shall mean any one or more data elements of a Customer, including but not limited to: (i) social security number; (ii) driver's license number or government issued ID number; (iii) credit card information; (iv) banking information; (v) PINS and passwords; (vi) personal health information; (vii) passport/alien registration information; (viii) date of birth; (ix) salary information; and (x) FPL account number.
- 1.46 "Program" shall mean the program under this Agreement as more specifically described and set forth in Exhibit A, which program shall be under the Sunshine Energy<sup>SM</sup> name or such other name which FPL chooses for the Program. FPL shall give Green Mountain 60 days advance notice of any change in the name for the Program.
- 1.47 "Program Effective Date" shall mean the later of (i) October 1, 2008 or (ii) the first FPL business day of the month that is thirty (30) days following the date FPL has obtained all necessary Governmental or Regulatory Authority approvals to begin Marketing the Program to Customers.
- 1.48 "Program Participation Fee" shall mean the aggregate amount of the tariff price a Participant is required to remit to FPL via FPL's Billing to participate in the Program during any FPL Cycle Month pursuant to the terms of the Green Pricing Rider.
- 1.49 "Renewal Term" shall have the meaning as set forth in Section 2.1 below
- 1.50 "Representative" shall have the meaning as defined in Section 15.1 below.
- 1.51 "Service Territory" shall mean the geographic areas within the State of Florida in which FPL is authorized to provide electric services to the public.
- 1.52 "Services" shall mean the development, execution, performance and completion by Green Mountain of Marketing, Customer Care and Advertising Material services as described and set forth in this Agreement, and any other related activities and services necessary for Green Mountain to perform its obligations under this Agreement, all in accordance with the terms of this Agreement
- 1.53 "Settlement Period" shall have the meaning as set forth in Section 13.2 below

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"Solar Energy Resource" shall mean the solar energy generation facility located at Rothenbach Park, 8350 Bee Ridge Road, Sarasota, Florida 34241.



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"Subcontractor" shall mean any person, firm, partnership, association, joint venture, company, corporation or other entity, regardless of tier, having an agreement, formal or informal, with Green Mountain to provide any of the Services required under this Agreement or with FPL to provide services in connection with FPL's fulfillment of its obligations under this Agreement. The term Subcontractor shall include vendors and suppliers of Green Mountain and FPL, as the context so requires.

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"Term" has the meaning set forth in Section 2.1.

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Term of Agreement

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2.1

Subject to Section 2.2, this Agreement shall commence and become effective on the Program Effective Date and shall remain in full force and effect until July 30, 2013 (the "Initial Term"), subject to the earlier termination provisions contained herein, unless otherwise extended or renewed (a "Renewal Term") as mutually agreed upon in writing duly executed by the Parties. The "Term" shall mean the Initial Term and any subsequent or successive Renewal Term(s). For the avoidance of doubt, FPL's and Green Mountain's responsibilities and obligations under the Original Contract Documents shall remain in full force and effect until (but excluding) the Program Effective Date.

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2.2

Notwithstanding any provision of this Agreement to the contrary, the effectiveness of this Agreement shall be conditioned upon the execution and delivery of the Assignment Agreement by each of [REDACTED] FPL and Green Mountain. If [REDACTED] has failed to execute the Assignment Agreement on or prior to [REDACTED] (or other date mutually agreed to in writing), then this Agreement shall automatically terminate and become void ab initio; provided, however, the Parties agree and acknowledge that in the event this Agreement is terminated based on [REDACTED] failure to execute the Assignment Agreement, the Original Contract shall continue to be in full force and effect and the Parties will work toward amending the Original Contract in a manner mutually agreed upon by the Parties.

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Marketing Obligations. During the Term and in strict accordance with the requirements of this Agreement:

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Green Mountain shall have the exclusive right during the Term of the Agreement to Market the Program to Customers in the Service Territory and FPL will not grant the right to Market the Program to any third party; provided, however, the foregoing exclusivity shall not be interpreted or otherwise deemed to prohibit FPL or its Affiliates to Market the Program during the Term to Customers in the Service Territory, subject to Green Mountain's approval rights as set forth in Section 3.3.

- 1 5.4 FPL shall provide enrollment services (via toll-free telephone, its website and paper processes), Customer Care and Billing with regard to the Program consistent with the quality standards FPL employs for its other electricity products and services. At a minimum, FPL will ensure that new Customers are enrolled in the Program within the same time period as FPL enrolls new customers in other FPL products and services;
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- 6 5.5 FPL shall ensure that any monthly Program premium is stated on the Customer's monthly bill in accordance with any Government or Regulatory Authority requirements;
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- 8 5.6 FPL shall, at its expense, be responsible for appropriate Customer Care and escalation procedures through its Customer Care call center. FPL shall, at its expense, be responsible for handling with the Government or Regulatory Authority and/or Customers all Customer complaints related to the Program. Green Mountain will assist FPL with any Customer complaint of which a Party is aware and will escalate all complaints to the appropriate FPL representative within twenty-four (24) hours of becoming aware of a complaint;
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- 14 5.7 FPL shall secure regulatory approval of the Program; provided, however, if FPL is unable, after using commercially reasonable efforts, to secure such regulatory approval, FPL shall be permitted to terminate this Agreement in accordance with Section 10.1.2 below;
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- 17 5.8 FPL shall assist Green Mountain in the development of Marketing and sales channels as necessary for the enrollment of Customers in the Program, including FPL's start service phone center or connect channel, an online movers center, and FPL Customer emails;
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- 20 5.9 FPL shall Market the Program to Customers within the Service Territory consistent with the Marketing Plan and the Message Map and in accordance with the terms of this Agreement;
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22 60 Program Compensation: Reimbursed Direct Marketing Costs and Taxes.

- 23 6.1 Monthly Services Fee; Monthly Program Participation Fee.
- 24 6.1.1 For each FPL Cycle Month (or portion thereof) during the Term, FPL shall pay Green Mountain the Monthly Services Fee in accordance with the terms hereof. The "Monthly Service Fee" shall mean [REDACTED]
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- 28 6.1.2 The "Monthly Program Participation Fee" shall mean, with respect to any FPL Billing Cycle (or portion thereof) after the Program Effective Date, [REDACTED]
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[REDACTED] For the purposes of the foregoing, if FPL collects from a Customer less than the total amount billed to a Customer (for both electric services provided by FPL and for participation in the Program under the Green Pricing Rider during the Term or participation in the Original Program), then the amount paid by such Customer shall be allocated on a pro rata basis, such that the Monthly Program Participation Fee shall include the pro rata portion of such payment. For example, if a Customer pays and FPL collects 80% of the amount billed, then 80% of the Monthly Rate shall be included in the Monthly Program Participation Fee. If a Customer later pays such unpaid amounts billed for services during the Term, then such amounts paid by the Customer shall be allocated first to amounts owed for any prior FPL Billing Cycle(s) (starting with the oldest such FPL Billing Cycle), and the applicable Monthly Program Participation Fee shall include the additional pro rata portion of such allocated payment for each such FPL Billing Cycle, until such prior FPL Billing Cycle(s) have been paid in full by such allocation. After allocation to prior FPL Billing Cycle(s) pursuant to the

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preceding sentence, any remaining amounts shall be allocated to the current FPL Billing Cycle, and the applicable Monthly Program Participation Fee shall include the pro rata portion of such payment allocated to the current FPL Billing. For avoidance of doubt, examples of the calculation of the Monthly Services Fee and the Monthly Program Participation Fee are set forth in more detail in Exhibit C, which is attached hereto and incorporated by this reference

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62 For providing the Services, for each FPL Cycle Month during the Term (or any portion thereof which falls during the Term), within fifteen (15) days after the end of each FPL Cycle Month, FPL shall pay Green Mountain via automated clearing house ("ACH") or wire transfer to the account designed by Green Mountain in writing an amount equal to the Monthly Services Fee calculated in accordance with Section 6.1. FPL shall give Green Mountain advance written notice on a yearly basis of the start and end dates of such FPL Billing cycle months. FPL's obligations to pay Green Mountain pursuant to this Section 6.0 with respect to any FPL Cycle Month (or portion thereof) during the Term will survive the expiration or termination of this Agreement

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63 FPL agrees to [REDACTED] are applicable to, any and all portions of the period from the Program Effective Date through July 30, 2013 (regardless of whether [REDACTED] in accordance with the terms of the Assignment Agreement. FPL's obligations pursuant to this Section 6.3, with respect to the period from the Program Effective Date through July 30, 2013, will survive the expiration or termination of this Agreement.

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64 [REDACTED]

66 Green Mountain shall submit duplicate invoices for Direct Marketing Costs to FPL's company representative, or designated back-up person, identified by FPL in writing. Such invoice shall be due and payable, and FPL shall pay Green Mountain such invoiced amount for Direct Marketing Costs, within forty-five (45) calendar days after FPL's receipt of a correct invoice in accordance with Section 6.7. All payments due under this Agreement shall be remitted to Green Mountain by check, ACH or wire transfer at the address or to the account specified in Green Mountain's invoice, in United States currency. FPL shall be entitled at all times to set-off any amount due and payable from Green Mountain, or its Affiliates, to FPL under this Agreement against any amount due and payable by FPL to Green Mountain under this Agreement. Green Mountain shall submit invoices to FPL for costs as soon as practical, but in no event later than sixty (60) calendar days following the later of (i) the end of the month during which the invoiced costs were incurred or (ii) the end of the month in which Green Mountain received an invoice for costs chargeable to FPL. Failure to invoice costs in a timely manner as described in this Section 6.0 may, at FPL's sole discretion, result in the disallowance of reimbursement for such costs.

67 For the purposes of Section 6.6, a correct invoice shall mean the following:

(www.fpl.com) will highlight the offering of the Program and list all available options for enrollment.

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10.0 Termination: Default and Limitation of Liability.

10.1 Termination. This Agreement may be terminated during the Term as follows:

10.1.1 By either Party for Cause in accordance with Section 10.2 below;

10.1.2 In the event that FPL is denied, by any Governmental or Regulatory Authority, the authority to conduct the Program or if such approval to conduct the Program is materially altered or impacted following the Program Effective Date because of (i) a rule or order of a Governmental or Regulatory Authority having jurisdiction over the Program, or (ii) a legislative proceeding or enactment, in each case, FPL may terminate this Agreement by giving sixty (60) calendar days written notice to Green Mountain of its intent to terminate pursuant to this Section 10.1.2, unless required to terminate earlier by said Applicable Laws or Governmental or Regulatory requirement. Should FPL terminate this Agreement under this Section 10.1.2, FPL shall pay Green Mountain as follows (without further penalty for such termination, but without affecting any other claims which Green Mountain may have arising other than as a result of such termination):

10.1.2.1 FPL shall pay Green Mountain, in accordance with the payment due dates set forth in Section 6.0, any and all (i) unpaid Monthly Services Fees owed to Green Mountain for all FPL Cycle Months (or portions thereof) during the Term, in accordance with Section 6.0, and (ii) Direct Marketing Costs incurred or contracted for by Green Mountain prior to such termination (regardless of whether such Direct Marketing Costs are for Services for the period before or after such termination, provided such Direct Marketing Costs were approved in the Marketing Plan or by FPL in writing); and

10.1.2.2 Green Mountain shall use all reasonable diligent efforts to mitigate the costs associated with termination of this Agreement with respect to terminated Services under this Section 10.1.2. At its option, FPL may conduct an audit of Green Mountain's records at FPL's sole expense to the extent reasonably necessary to verify that termination charges pursuant to Section 10.1.2 comply with the terms of this Agreement, during normal business hours at the usual location of such records upon no less than ten (10) Business Days advance written notice to Green Mountain. For avoidance of doubt, the exclusivity covenants contained in Section 3.1 of this Agreement shall not apply to FPL as of the effective date of termination under this Section 10.1.2.

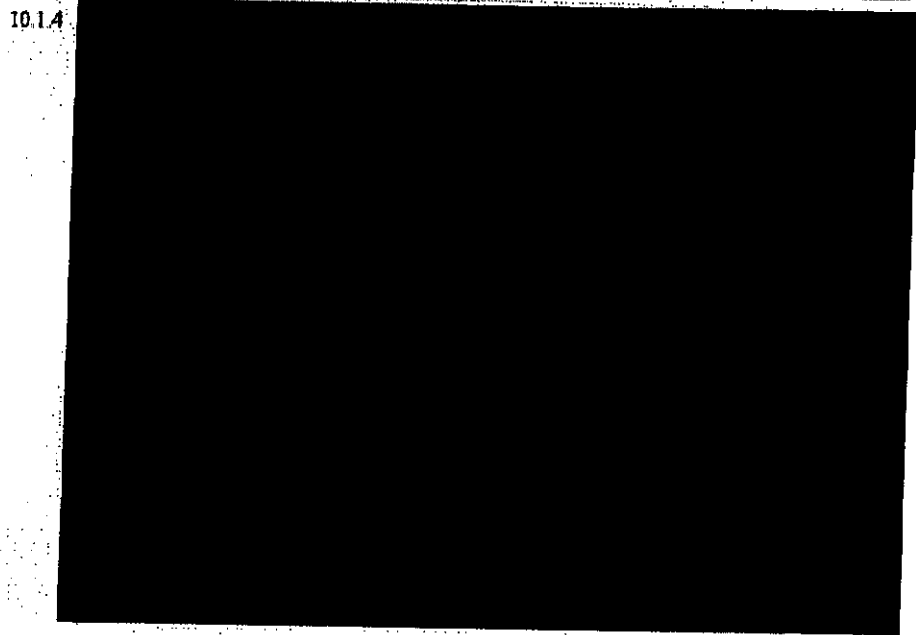
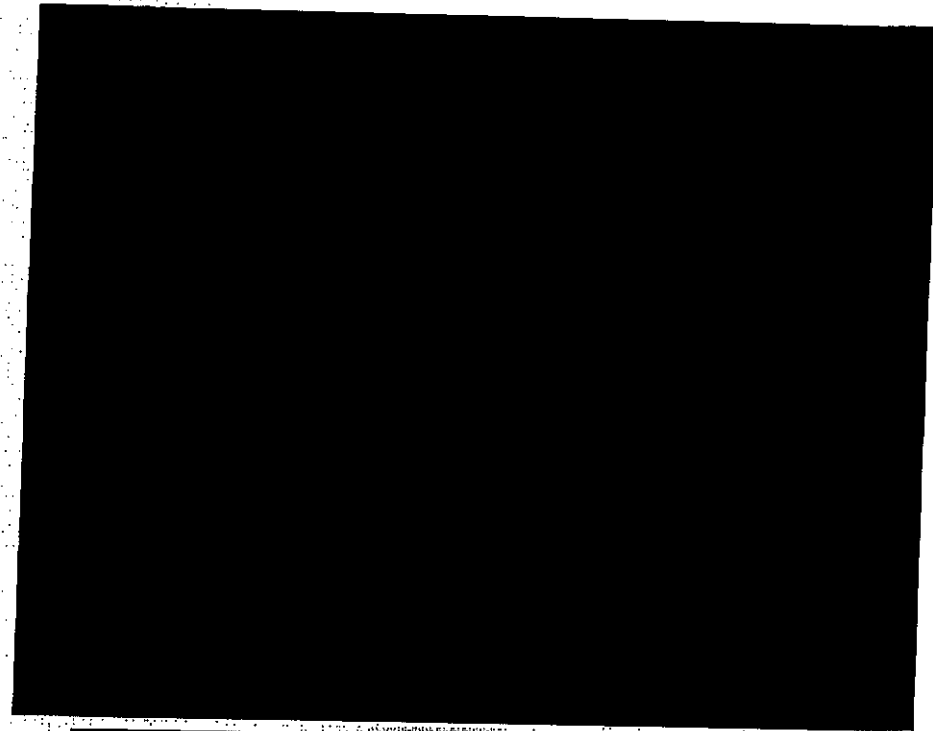
10.1.2.3 Green Mountain shall pay FPL, in accordance with the payment due dates set forth in Section 6.0, any and all costs incurred by FPL prior to such termination provided Green Mountain is obligated to pay such costs pursuant to Section 6.8 and such costs were approved in advance by Green Mountain pursuant to a written instrument duly executed by Green Mountain.

10.1.3 In addition to FPL's rights to terminate this Agreement pursuant to Sections 10.1.1 and 10.1.2, following the Execution Date, FPL may, at its sole discretion, without penalty for such termination and without prejudice to any other right or remedy, terminate this Agreement at any time after January 1, 2009 for its convenience upon at least ninety (90) days prior written notice. Such termination shall be effective as of the date specified in such 90-day written notice.





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Termination for Cause. A Party shall be entitled to (i) terminate this Agreement for Cause without penalty, termination cost or obligation, and (ii) pursue any remedies available to it generally under

Applicable Laws, in equity or under this Agreement, upon the occurrence of any of the following events (any such event, a "Cause"):

- 10.2.1 The failure of the other Party to make any payment due hereunder (other than payment of interest due pursuant to Section 6.9) and such failure continues for thirty (30) days after written notice demanding such payment is received;
- 10.2.2 The failure of the other Party to make any payment of interest due pursuant to Section 6.9 and such failure continues for six (6) months after written notice demanding such payment is received;
- 10.2.3 In the event the other Party shall cease doing business as a going concern, shall generally not pay its debts as they become due or admit in writing its inability to pay its debts as they become due, shall file a voluntary petition in bankruptcy or shall be adjudicated as bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future Applicable Laws;
- 10.2.4 In the event that within thirty (30) days after the commencement of any proceeding against either Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other statute or Applicable Laws, such proceeding shall not have been dismissed, or if, within thirty (30) days after the appointment without the consent or acquiescence of said Party of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within thirty (30) days after the expiration of any such stay, such appointment shall not have been vacated;
- 10.2.5 Any of the Party's representations and warranties contained in the Agreement hereof other than Sections 7.2 and 7.3, were false in any material respect or misleading in any material respect when made, unless the fact, circumstance or condition that is the subject of such representation or warranty is made true within thirty (30) days after the defaulting Party has received notice thereof from the non-defaulting Party;
- 10.2.6 Any material failure by Green Mountain to comply with its warranty and representations contained in Sections 7.2 and 7.3 hereof, and such failure is not cured within a reasonable period of time, but in no event more than thirty (30) days after written notice from FPL specifying the nature of such failure to comply with its warranty and representations contained in Sections 7.2 and 7.3 hereof;
- 10.2.7 Immediately for any unauthorized disclosure by Green Mountain or its Subcontractors to any third party of any Personal Information in violation of the terms of Section 15.0;
- 10.2.8 Immediately by FPL if [REDACTED]
- 10.2.9 [REDACTED]

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10.2.10 The other Party permanently or persistently fails to perform its obligations under the terms of this Agreement in any material respect, and such persistent failure continues for a period of thirty (30) days following written notice to such other Party of such persistent failure;



10.2.11 or  
10.2.12 Any other material default in performance or observance of any undertaking, covenant or other material obligation contained in this Agreement unless, within thirty (30) days after written notice from the non-defaulting Party specifying the nature of such material default, the defaulting Party cures such default or, if such cure cannot reasonably be completed within thirty (30) days and if the defaulting Party within such thirty (30) day period commences, and thereafter proceeds with all due diligence, to cure such default, said period shall be extended for such further period as shall be necessary for the defaulting Party to cure such default with all due diligence, provided that the extended cure period shall not exceed sixty (60) days from the date of the original notice.

10.3 Limitation of Liability If a Party breaches this Agreement, the non-breaching Party shall use reasonable efforts to mitigate any and all damages arising from the breach. **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, BUT SUBJECT TO THE NEXT SENTENCE, A PARTY'S LIABILITY TO THE OTHER PARTY IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES AND SHALL EXCLUDE ANY OTHER LIABILITY, INCLUDING, WITHOUT LIMITATION, LIABILITY FOR SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES IN CONTRACT, TORT, WARRANTY, STRICT LIABILITY OR OTHERWISE. FOR THE AVOIDANCE OF DOUBT, ALL DAMAGES (REGARDLESS OF WHETHER THEY WOULD OTHERWISE BE DEEMED INDIRECT, INCIDENTAL OR CONSEQUENTIAL TYPE DAMAGES) PAYABLE TO THIRD PARTIES BY EACH PARTY WITH RESPECT TO MATTERS FOR WHICH THE OTHER PARTY IS ENTITLED TO INDEMNIFICATION UNDER THIS AGREEMENT SHALL BE DEEMED DIRECT DAMAGES, RECOVERABLE BY THE INDEMNIFIED PARTY, REGARDLESS OF THE CHARACTERIZATION OF THOSE DAMAGES AS PAYABLE TO THIRD PARTIES.**

11.0 Post-Termination and Expiration Obligations.

11.1 Upon termination of this Agreement, FPL and Green Mountain shall promptly engage in a final accounting of the Program and shall pay, as appropriate, all amounts due under this Agreement, and shall return all property of Green Mountain or FPL, as appropriate, to the respective owner. Except as otherwise provided for in Section 10, immediately upon termination Green Mountain shall cease marketing the Program to Customers

11.2 Termination or expiration of this Agreement: (i) shall not relieve either Party of its obligations with respect to the confidentiality of the other Party's information as set forth in Section 15.0; (ii) shall not relieve either Party of any obligation hereunder which expressly or by implication survives expiration or termination hereof; and (iii) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either FPL or Green Mountain of any obligations or liabilities hereunder for loss or damage to the other Party

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22.2 No assignment or transfer of this Agreement shall relieve either Party of any of its obligations hereunder until such obligations have been assumed by the assignee and agreed to by FPL, Green Mountain and assignee.

22.3 If the Agreement should be permitted to be assigned by either Party, it shall be binding upon and shall inure to the benefit of the permitted assignee.

23.0

The Parties agree and acknowledge that FPL, not the Green Mountain, shall own all right, title and interest in and have the exclusive right to claim ownership in any [redacted] during the period from the Program Effective Date through July 31, 2013, as such rights are set forth in the [redacted] and in the Assignment Agreement, between FPL, Green Mountain and [redacted]. The Parties further agree and acknowledge that any [redacted] during the period from the Execution Date of this Agreement until the Program Effective Date will continue to be governed by the terms and conditions of the Original Contract Documents, [redacted].

24.0 Entire Agreement

The Parties hereby each acknowledge that no representations, agreements, or promises were made to such Party by the other Party or by any of its employees other than those representations, agreements, or promises specifically contained herein. This Agreement, together with any schedules, amendments or Exhibits hereto, constitutes the entire agreement and understanding of the Parties with respect to the matters and transactions contemplated hereby. This Agreement supersedes any prior agreement and understanding with respect to these matters and transactions. As of the Program Effective Date, this Agreement supersedes and replaces in its entirety the Original Contract Documents.

25.0 Non-Waiver

No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the Party claimed to have waived or consented. No waiver of any of the provisions of this Agreement or the failure to exercise any right herein shall be deemed to constitute a waiver of any other provision, whether or not similar, nor shall any waiver be deemed to waive any different or subsequent breach.

26.0 Binding Effect

This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto as well as their respective successors, assigns and legal representatives.

27.0 No Third Party Beneficiaries

The Parties acknowledge and intend that this Agreement was entered into solely for the respective benefit of each of them and their respective successors and assigns, and nothing in this Agreement is intended to, or shall, create any third-party beneficiaries, whether intended or incidental, and neither Party shall make any representation to the contrary.

28.0 Force Majeure

In the event either Party is rendered unable, by reason of Force Majeure, to carry out wholly or in part its obligations under the provisions hereunder, it is agreed that if such Party gives notice and full particulars of such event of Force Majeure to the other Party as soon as practicable after the occurrence of the cause relied on, then the obligations of the Party affected by such event of Force Majeure, other than the obligation to make payments then due or becoming due hereunder, shall be excused from the inception and

**EXHIBIT B**

**GREEN MOUNTAIN  
PROGRAM COMPENSATION & PERFORMANCE METRICS**

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Compensation	2008	2009	2010	2011	2012	2013
Monthly Fee per Participant, paid by FPL to Green Mountain	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Performance Metrics Goals	2008	2009	2010	2011	2012	2013
Annual program performance growth goals <sup>(1)</sup>	N/A	7%	10%	10%	12%	4%
Maximum average annual cost per sale <sup>(2)</sup>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

- (1) The annual program performance growth is determined by dividing the subject year's number of Participants in the Program for the December FPL Cycle Month, by the number of Participants in the Program for prior year's December FPL Cycle Month. For 2013, the number of Participants in the Program for the July FPL Cycle Month paid Participants is divided by the December 2012 paid participants. The number of Participants for each FPL Cycle Month shall, in each case, be calculated in accordance with Section 6.1 and the other terms of the Agreement.
- (2) While the Direct Marketing Costs are paid by FPL, Green Mountain's goal for the average cost per sale on an annual basis is to not exceed this amount. The average annual cost per sale is a target and does not limit in any way FPL's obligation to reimburse Green Mountain for all Direct Marketing Costs.

**EXHIBIT C**

**MONTHLY SERVICE FEE EXAMPLES**

	C	D	E	F	G	H
Electric Amount Due to FPL <sup>(1)</sup>						
Sunshine Energy <sup>(2)</sup> Monthly Rate Due to FPL						
Monthly Service Fee						
Electric Amount Paid <sup>(2)</sup>						
Monthly Program Participation Fee paid						
Monthly Service Fee paid to Green Mountain						

C D E F G H

Facts for all Scenarios

FPL Cycle Month 1 Total Electric Amount including Sunshine Energy Premium of \$9.75  
 FPL Cycle Month 2 Total Electric Amount including Sunshine Energy Premium of \$9.75

\$100.00	\$9.75				
\$150.00	\$9.75				

Scenario #1 Participant pays both months in full  
 FPL Cycle Month 1 Total Electric Amount including Sunshine Energy Premium of \$9.75  
 FPL Cycle Month 2 Total Electric Amount including Sunshine Energy Premium of \$9.75

\$100.00	\$9.75		\$100.00	\$9.75	
\$150.00	\$9.75		\$150.00	\$9.75	

Scenario #2 Participant pays 1/2 of first month in month 1 & full balance in month 2  
 FPL Cycle Month 1 Total Electric Amount including Sunshine Energy Premium of \$9.75  
 FPL Cycle Month 2 Total Electric Amount including Sunshine Energy Premium of \$9.75

\$100.00	\$9.75		\$50.00	\$4.88	
\$200.00 <sup>(1)</sup>	\$9.75		\$200.00	\$14.62	

For Scenario #2, the following breakdown shows how the payment is applied in Month 2

Unpaid, carry-over balance from FPL Cycle Month 1:	\$50.00		\$50.00	\$4.87	
FPL Cycle Month 2 amounts newly billed:	\$150.00	\$9.75	\$150.00	\$9.75	
	<u>\$200.00</u>	<u>\$9.75</u>	<u>\$200.00</u>	<u>\$14.62</u>	

Scenario #3 Participant pays 1/2 of first month in month 1 & 1/3 of balance in month 2  
 FPL Cycle Month 1 Total Electric Amount including Sunshine Energy Premium of \$9.75  
 FPL Cycle Month 2 Total Electric Amount including Sunshine Energy Premium of \$9.75

\$100.00	\$9.75		\$50.00	\$4.88	
\$200.00 <sup>(1)</sup>	\$9.75		\$100.00 <sup>(1)</sup>	\$8.12 <sup>(1)</sup>	

For Scenario #3, the following breakdown shows how the payment is applied in Month 2

Unpaid, carry-over balance from FPL Cycle Month 1:	\$50.00		\$50.00	\$4.87	
FPL Cycle Month 2 amounts newly billed:	\$150.00	\$9.75	\$50.00	\$3.25	
	<u>\$200.00</u>	<u>\$9.75</u>	<u>\$100.00</u>	<u>\$8.12</u>	

(1) The Electric Amount Due represents the total amount due to FPL for electric services, the Sunshine Energy<sup>SM</sup> Program Monthly Rate and all FPL Service Charges. This amount includes both current charges and past due charges for FPL electric services, the Sunshine Energy<sup>SM</sup> Program Monthly Rate and FPL Service Charges. The term "FPL Services Charges" means late payment charges, reconnect charges (for disconnected delinquents), returned check charges, penalties for field agent collections and similar charges. FPL posts payments to oldest debits first with electric amount receiving first priority based on debit date. After amounts owed for the oldest debit date are paid in full (for FPL electric services, the Sunshine

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Energy<sup>SM</sup> Program Monthly Rate and FPL Service Charges), FPL then posts payments to the next oldest debit date and so on. For customers on budget billing or other electric bill payment programs, the total Electric Amount Billed shall be the amount which the Customer is required to pay under the budget billing or electric bill payment program on the applicable bill for the applicable FPL Billing Cycle. For example, if a Customer pays the full amount billed under the electric bill payment program for an FPL Billing Cycle, then 100% of the Monthly Rate shall be included in the Monthly Program Participation Fee.

(2) The Electric Amount Paid represents the total amount paid by Customer to FPL for electric services, the Sunshine Energy<sup>SM</sup> Monthly Rate and all FPL Service Charges,

(3) The Monthly Service Fee paid to Green Mountain is [REDACTED] calculated in accordance with Section 6.1 of the Agreement and this Exhibit C.

(4) This Electric Amount Billed includes \$50.00 in unpaid amounts from FPL Cycle Month 1 and \$150.00 in new charges for FPL Cycle Month 2.

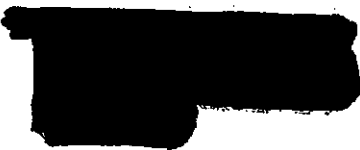
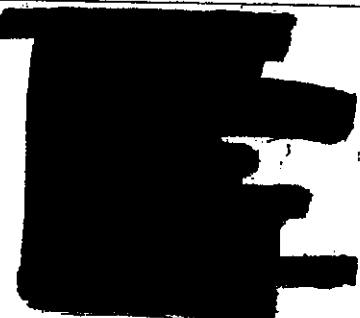
(5) Of the \$100.00 paid, \$50.00 is allocated to the FPL Cycle Month 1, then the remaining \$50.00 to FPL Cycle Month 2.

(6) The Monthly Program Fee for FPL Cycle Month 2 is \$8.12, which equals \$4.87 (for the \$50.00 allocated to the unpaid, carry-over balance from FPL Cycle Month 1) plus \$3.25 (for the \$50.00 allocated to the \$150.00 in new charges billed for FPL Cycle Month 2).

(7) When Electric Amounts Billed are written-off for lack of payment, the Sunshine Energy<sup>SM</sup> Monthly Rate billed outstanding balance is set to \$0.00 for the written-off accounts.

c

**COMPARISON OF KEY PROVISIONS IN GREEN MOUNTAIN AGREEMENTS**

Provision	Current Contract	New Contract
Services Provided by Green Mountain:	<ul style="list-style-type: none"> <li>• Purchase RECs (Section 15.3)</li> <li>• Cause to be constructed 150 kW of solar capacity for every 10,000 customers (Section 18.1)</li> <li>• Marketing and advertising services (Section 13)</li> </ul>	<ul style="list-style-type: none"> <li>• No purchase of RECs</li> <li>• No involvement in the construction of renewable facilities (FPL solely responsible for siting and developing renewable facilities)</li> <li></li> <li>• Marketing, advertising, and customer retention services <u>only</u> (Sections 3.1 and 4)</li> </ul>
Remittance to Green Mountain:	<ul style="list-style-type: none"> <li>• FPL remits \$9.10 per 1,000 kW for green tags, marketing services, and development of solar resources (Section 12.1)</li> </ul>	
Termination:	<ul style="list-style-type: none"> <li>• FPL can terminate for convenience if a) FPL pays a termination fee or b) FPL ceases to offer a green pricing program to residential customers for two years (Sections 20.4 – 20.5)</li> </ul>	<ul style="list-style-type: none"> <li>• FPL can terminate for convenience after January 1, 2009; FPL would only owe the monthly service fees and direct marketing costs through the termination effective date and could continue the program and use of the Sunshine Energy name without a termination fee (Section 10.1.3)</li> </ul>