

AGREEMENT OF GUARANTY

THIS AGREEMENT OF GUARANTY ("Guaranty") is made as of the 20th day of JANUARY, 2010, by the undersigned (the "Guarantor"), for the benefit of FLS Solar 20, LLC, a North Carolina limited liability company and its assignees (the "Seller") and The Board of Trustees for Haywood Community College (the "Purchaser"), for the purposes of developing, maintaining and operating the System (as defined in the SPA) pursuant to that certain Solar Purchase Agreement between the Seller and Purchaser, dated _____, 2010 (the "SPA"), located on the Property as defined and specified in the SPA. Guarantor is the managing member of the Seller pursuant to an Amended and Restated Operating Agreement dated December 30, 2009 (the "Operating Agreement").

NOW, THEREFORE, in consideration of the foregoing recitals and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor, for the benefit of the Purchaser, hereby irrevocably and unconditionally guarantees and agrees as follows:

1. Reliance. The Guarantor agrees and acknowledges that this Guaranty is given to induce the Purchaser to execute the SPA and purchase solar thermal energy from the Seller pursuant to the SPA. Absent execution and delivery of this Guaranty, the Purchaser would not have executed the SPA. The Guarantor acknowledges that the Guarantor was and will be directly benefited by the Purchaser executing the SPA.

2. Guaranteed Obligations. The Guarantor hereby unconditionally guarantees to the Purchaser the full and prompt performance, observance, compliance, and satisfaction of all obligations, covenants, representations, and warranties on the part of the Seller to be performed, observed, complied with, or satisfied with respect to Article III and Sections 4.1, 4.2 and 5.1(a) of the SPA. All obligations of the Seller herein guaranteed are referred to as the "Guaranteed Obligations."

3. Guaranty of Performance. The guaranty made hereunder is of performance only, and Guarantor waives any right to require that any action be brought against the Seller or any other Person liable for performance of any of the Guaranteed Obligations or that resort first be had to any other security therefor.

4. Effect of Payment by Guarantor to the Seller and/or Purchaser. No payment by the Guarantor to the Seller and/or the Purchaser under the terms of this Guaranty shall constitute a capital contribution, loan, or advance to the Seller or change in any interest of any of the Members in the Seller, except as expressly provided for under the terms of the Operating Agreement. The Guarantor shall not have any rights in or to the Seller or its assets as a creditor by virtue of any performance made hereunder.

5. Continuing Guaranty. This Guaranty shall be unconditional, continuing, absolute and irrevocable, and shall continue until all Guaranteed Obligations have been fully performed, and satisfied, and shall not be affected or impaired by: (a) any

modification, extension, or amendment of the SPA or any other agreement now or hereafter executed by the Purchaser; (b) any modification, extension of time for the forbearance, settlement, release, surrender, exchange, or discharge of any of the Guaranteed Obligations; (c) dissolution or insolvency of the Seller or the Guarantor; (d) release of the Seller from the performance or observance of any of the Guaranteed Obligations, arising by operation of law or otherwise, whether made with or without notice to the Guarantor; (e) any act done, suffered, or left undone by the Purchaser or the Seller relating to the SPA, this Guaranty, or any other instrument or thing, including, without limitation, any delay or failure on the part of the Seller or Purchaser in exercising any right, power or privilege under the SPA, this Guaranty, or any other instrument or document executed by the Seller and Purchaser; (f) any failure to give any notices of acceptance, notices of default, or other notices; (g) any change or extension of time of performance of, or any renewal or alteration in any of the Guaranteed Obligations or any liability incurred directly or indirectly in respect thereof; or (h) the Purchaser's exercise or forbearance from exercising any rights or remedies against the Seller, or any other act, or failure to act in any manner, which may deprive the Guarantor of any rights of subrogation, contribution, or indemnity against the Seller.

6. Waivers. The Guarantor hereby waives: (a) notice of acceptance, notice of demand, notice of protest, notice of default, and all other notices to which the Guarantor might otherwise be entitled; (b) any and all claims or defenses relating to lack of diligence or delays in enforcement, or any other indulgence or forbearance whatsoever with respect to any obligations relating to the Guaranteed Obligations and any defense which the Guarantor may have by reason of any defense which the Seller may have against the Purchaser, other than satisfaction and performance of the Guaranteed Obligations; (c) any right, title, or interest in, or claim to, whether by subrogation or otherwise, any collateral or assets of the Seller until all Guaranteed Obligations have been fully paid, satisfied, and performed; and (d) any defense or claim relating to the marshaling of assets or any requirement to proceed against any parties or collateral in any particular order; and (e) all other suretyship defenses, rights, and claims.

7. Costs and Attorney Fees. The Guarantor agrees, in addition to the liability for the Guaranteed Obligations, to reimburse the Purchaser and the Seller for all costs and expenses, including reasonable attorney fees actually incurred, which the Purchaser or the Seller, as the case may be, may incur (a) in the enforcement of this Guaranty and/or (b) in connection with any bankruptcy or similar proceeding wherein the Seller or the Guarantor is the "debtor".

9. Investigation. The Guarantor delivers this Guaranty based solely upon the Guarantor's own independent investigation of the financial condition of the Seller and in no part upon any representation or statement of the Purchaser with respect thereto. The Guarantor is in a position to and does hereby assume full responsibility for obtaining any additional information concerning the financial condition of the Seller as the Guarantor may deem material to Guarantor's obligations hereunder, and the Guarantor is not relying upon, nor expecting the Purchaser to furnish, any information in the Purchaser's possession concerning the financial condition of such party. The Guarantor hereby knowingly accepts the full range of risks encompassed within this Guaranty. This

Guaranty will be effective when delivered to the Purchaser without need for acceptance or any other formality.

10. Purchaser' Rights. The Purchaser may, at any time and from time to time, with or without the consent of, or notice to, the Guarantor, and without incurring responsibility or liability to the Guarantor or impairing or releasing the obligations of the Guarantor hereunder:

(i) change the manner, place, or terms of performance of, or renew, replace, extend, or otherwise modify any document now or hereafter creating, securing, or governing any of the Guaranteed Obligations (including, without limitation, the SPA) other than this Guaranty;

(ii) sell, exchange, release, surrender, realize upon, or otherwise deal with, in any manner and in any order, any property, including without limitation the Solar Thermal Facility, by whomsoever and whenever pledged to secure, or howsoever securing, any of the Guaranteed Obligations or any liability (including, without limitation, any of those hereunder) incurred directly or indirectly in respect thereof or hereof;

(iii) exercise or refrain from exercising, for any period of time whatsoever, any rights against the Purchaser or the Guarantor available to the Seller by law or under any document now or hereafter creating any of the Guaranteed Obligations, any other security therefor, or any liability (including, without limitation, any of those hereunder) incurred directly or indirectly in connection therewith or herewith (including, without limitation, failing to attempt to collect any of the Guaranteed Obligations);

(iv) settle or compromise any of the Guaranteed Obligations, any security therefor, or any liability (including, without limitation, any of those hereunder) incurred directly or indirectly in connection therewith or herewith;

(v) accept any further security for payment of the Guaranteed Obligations in addition to this Guaranty; and

(vi) perform such other acts as may be permitted under the SPA.

11. Subrogation. Until the Guaranteed Obligations have been performed the Guarantor shall have no right of subrogation against the Seller in connection with this Guaranty nor any right to participate in realization upon any security for any of the Guaranteed Obligations.

12. Successors. This Guaranty shall be binding upon the Guarantor, the Guarantor's heirs, personal representatives, successors, and assigns, and shall inure to the Purchaser's benefit and to the benefit of the Purchaser's successors and assigns, and to the benefit of anyone claiming title to any collateral sold by the Purchaser pursuant to any rights, powers, and privileges it or they now have or may hereafter possess.

13. Integration; Waiver. This Guaranty contains the sole and entire understanding and agreement of the parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations and understandings. This Guaranty may not be terminated or otherwise amended, changed, or modified, nor shall there be any waiver or estoppel by the Purchaser or the Seller, except by a written instrument signed by the Purchaser and the Seller. No waiver, express or implied, by the Purchaser or the Seller of any default hereunder shall be deemed a waiver of any other or succeeding default hereunder.

14. Governing Law. This Guaranty shall be interpreted and construed in accordance with the laws of the State of North Carolina, as if executed and to be performed wholly within the State of North Carolina.

15. WAIVER OF TRIAL BY JURY. THE GUARANTOR HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHT UNDER THIS GUARANTY OR RELATING HERETO OR ARISING FROM THE TRANSACTION WHICH IS THE SUBJECT OF THIS GUARANTY AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

This Guaranty has been executed and delivered effective as of the date first written above.

GUARANTOR:

FLS ENERGY, INC.

By: 

Michael Shore, President