

SOLAR RENEWABLE ENERGY CERTIFICATE PURCHASE AND SALE AGREEMENT

THIS SOLAR RENEWABLE ENERGY CERTIFICATE PURCHASE AND SALE AGREEMENT (“Agreement”), dated as of _____, 2010, (the “Effective Date”), is made and entered into by and between Rockland Electric Company, a New Jersey corporation (“RECO” or “Purchaser” or “Us” or “We”), having offices at 82 E. Allendale Ave. – Suite 8, Saddle River, New Jersey 07458, and _____, [a _____] (“Seller” or “You”), having a [its] principal place of residence [business] at _____, New Jersey [Zip Code]. From time to time throughout this Agreement, each of Purchaser and Seller is referred to as, individually, a “Party” and together, collectively, as the “Parties” or “They.”

BACKGROUND

A. The New Jersey Board of Public Utilities (“Board”), in its Order dated January 21, 2010 in Docket No. EO09020097 (the “SREC Contracting Order”) approved RECO’s SREC-based contracting program and authorized and directed RECO to enter into long-term contracts to purchase the solar renewable energy certificates (“SRECs”) generated by solar photovoltaic generation projects (each a “Project”) within RECO’s service territory, which are installed, owned and operated by RECO customers or by solar project developers (each a “Project Developer”) at RECO customer locations, which Projects have been selected under Board-approved procedures for an award of a SREC purchase contract.

B. Seller is either (i) a RECO customer who is, or has entered into an agreement with, a Project Developer for purposes of developing, designing, procuring, installing and operating a Project at the premises or the facility owned or operated by Seller, or (ii) a Project Developer that has entered into an agreement with a RECO customer to install, own and operate a Project at the premises or the facility owned or operated by the customer (in either case, the “Facility”) physically located in the RECO service territory, as such Facility is identified in this Agreement as set forth in Appendix B attached hereto.

C. Seller’s Project as specified in Appendix B (“Seller’s Project”), has been selected for award of a SREC purchase contract.

D. RECO has agreed to purchase, and Seller has agreed to sell, the SRECs generated by Seller’s Project under the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the promises and the mutual covenants and agreements hereinafter set forth, the Parties hereto agree as follows:

1. Defined Terms. Capitalized terms not otherwise defined herein, shall have the meaning set forth in the General Terms and Conditions attached hereto as Appendix A.

2. Term of Agreement. The term of this Agreement (“Term”) shall commence on the Effective Date and shall terminate upon expiration of the Delivery Period, unless terminated earlier pursuant to the terms hereof.

3. Registration of Seller’s Project.

A. You shall be responsible to construct Seller’s Project, or to cause it to be constructed so that it may be registered, and to register Seller’s Project, or cause it to be registered, with the New Jersey Clean Energy Program under the direction of the Board’s Office of Clean Energy (“OCE”).

B. You shall submit all required applications and other forms to OCE, as required by OCE, and You, at your sole cost and expense, shall cause OCE to inspect, or arrange for inspection of, Seller’s Project in order for OCE to verify and certify that the SRECs generated by Seller’s Project are eligible for use in complying with the New Jersey Renewable Portfolio Standards (“RPS”) as set forth at N.J.A.C. 14:8-2.1 et seq., as amended, and as in effect from time to time during the Term of this Agreement, and You shall provide Us with a copy, or other acceptable evidence, of the OCE registration, inspection and certification confirming and verifying that Seller’s Project is capable of producing RPS-eligible SRECs.

4. Creation of SRECs.

A. When (i) Seller’s Project has been constructed, and registered, inspected and certified, with and by, OCE as capable of producing SRECs eligible for use in complying with the RPS, (ii) the Conditions Precedent as set forth in Section A of the attached General Terms and Conditions have been satisfied, completed or waived by Us, and (iii) you have delivered your written notice to Us that Seller’s Project is operational, You shall begin to sell and deliver SRECs to Us.

B. An “SREC” is a Solar Renewable Energy Certificate, which is issued on a monthly basis, and represents all rights, title and interest in and to the environmental attributes associated with the electricity generated by solar photovoltaic systems in New Jersey. One SREC represents the environmental attributes of one megawatt-hour of solar electric generation. Such electricity generation is tracked through monthly meter readings in accordance with applicable PJM-EIS-GATS (as defined in Section G of the attached General Terms and Conditions) Operating Rules and other related requirements.

C. For purposes of this Agreement, only meter readings from the SREC Meter (as defined in Section A.6 of the General Terms and Conditions), and not engineering estimates, shall be accepted as the basis for establishing the actual amounts of generation from Seller’s Project for purposes of determining the number of SRECs created by Seller’s Project during the Term of this Agreement.

5. Delivery Period. The “Delivery Period” begins on the date that (i) You deliver written notice to Us that Seller’s Project is operating and able to generate SRECs and deliver them pursuant to the terms of this Agreement, whether or not RECO has completed its own work for the interconnection of Seller’s Project unless such delay is caused by Seller, and (ii) after satisfaction and/or completion by You, or waiver by Us, of the Conditions Precedent (such date being the “Commencement Date”). The Delivery Period shall terminate at 11:59 p.m. of the date that is 120 months (*i.e.*, ten years) following the Commencement Date. Each twelve consecutive months following the Commencement Date shall be a “Contract Year.”

6. Purchase and Sale Obligation.

A. You hereby agree to sell and deliver to Us, and We hereby agree to purchase and take delivery of, the SRECs produced from Seller’s Project as and when such SRECs are created by, and through, the actual generation of one megawatt hour of electricity by Seller’s Project, as registered on the SREC Meter or as otherwise provided herein, during the Term of this Agreement (the “Transferred SRECs”).

B. Only whole (as opposed to fractional) Transferred SRECs shall be considered eligible for payment under this Agreement.

C. In addition to Seller’s sale and Purchaser’s purchase of SRECs, Purchaser, without the payment of any additional consideration to Seller, shall receive title to, and Seller shall convey to Purchaser, any and all other Environmental Attributes associated with the electricity generated by the Seller’s Project. For purposes hereof, “Environmental Attributes” excludes electric energy and capacity produced, but includes any other emissions, air quality, or other environmental attribute, aspect, characteristic, claim, credit, benefit, reduction, offset or allowance, howsoever entitled or designated, resulting from, attributable to or associated with the generation of energy by a solar renewable energy facility, whether existing as of the date of the SREC Contracting Order or in the future, and whether as a result of any present or future local, state or federal laws or regulations or local, state, national or international voluntary program. If during the Delivery Period, a change in laws or regulations occurs that creates value in Environmental Attributes, including but not limited to any associated tax references and benefits, then at Purchaser’s request, Seller shall cooperate with Purchaser to register such Environmental Attributes or take other action necessary to obtain the value of such Environmental Attributes for Purchaser.

D. We shall not purchase any energy or capacity from Seller’s Project under this Agreement, and You may enter into other agreements with others to sell energy and/or capacity produced by Seller’s Project. This Agreement also makes no provision for net metering by the Seller’s Project.

7. Assignment of SRECs. In furtherance of Your Agreement to sell the Transferred SRECs to Us for the Term of this Agreement, You hereby assign to Us, free and clear of all liens, security interests, encumbrances, and Claims (as defined in Section M of the attached General Terms and Conditions) or any interest therein or thereto by any other person, all of Your rights, title and interests in the Transferred SRECs.

8. Quantity of SRECs.

A. During each Contract Month of each Contract Year, You shall sell and deliver to Us, and We shall purchase and accept delivery of, 100% of the quantity of Transferred SRECs produced by Seller's Project, if any, during each such Contract Month of each Contract Year, up to, but not in excess of, on an annual basis, an amount calculated by multiplying (i) the Direct Current ("DC") nameplate generating capacity, expressed in kilowatts (i.e., kW) of the solar photovoltaic panels comprising Seller's Project by (ii) 1,300 hours (the product of such calculation being the "Annual SREC Generation Capacity").

B. In the event that Seller's Project produces SRECs in excess of such Annual SREC Generation Capacity, We shall have the option, but not the obligation, to purchase up to the total of such excess SRECs at 95% of the Purchase Price. Unless We exercise such option, and then only to the extent of the number of excess SRECs we choose to purchase, excess SRECs shall not be treated, or paid for, as Transferred SRECs

C. As used herein, "Contract Month" means each calendar month during the Delivery Period and, where the Commencement Date does not fall on the first day of a month, the remaining portion of such initial month.

9. Purchase Price for SRECs. We shall pay You \$ 4,410.00 (U.S.) per Transferred SREC ("Purchase Price") delivered to Us from Seller's Project during each Contract Month.

10. Delivery of SRECs.

A. Subject to Section G of the General Terms and Conditions, You shall arrange for the Delivery of the Transferred SRECs to Us.

B. "Delivery" occurs when title and risk of loss related to Transferred SRECs has been transferred from You to Us and when the transfer of SRECs are properly recorded within the PJM-EIS-GATS and credited to Purchaser's PJM-EIS-GATS "Active Subaccount," as defined in the PJM-EIS-GATS Operating Rules. Pursuant to the assignment set forth in Section 7 above, You shall execute such forms or instructions as We and/or PJM-EIS-GATS shall require in order to Deliver all Transferred SRECs each month directly into Purchaser's Active Subaccount.

C. We shall be required to read the SREC Meter and provide SREC Meter reading data to PJM-EIS-GATS only as frequently as is necessary to allow for the appropriate recordation of the Transferred SRECs within PJM-EIS-GATS. In the event that such readings are not required to be made on a monthly basis, We shall agree upon an estimate of the amount of Transferred SRECs for each Contract Month for which there is no actual SREC Meter reading, and We shall pay you based upon such estimate, subject to reconciliation based on the next actual SREC Meter reading.

11. Payment for Transferred SRECs.

A. Notwithstanding the monthly Delivery of Transferred SRECs from You to Us, We shall pay You for such Transferred SRECs quarterly, by issuing a payment to You for

the actual or estimated Transferred SRECs for the preceding Contract Quarter within 20 Business Days following the expiration of the Contract Quarter (*i.e.*, the 20th Business Day of the next Contract Month following the end of the applicable Contract Quarter, or in the case of the early termination or expiration of the term of this Agreement, the 20th Business Day of the month following the end of the calendar quarter in which such termination or expiration of the Term occurs). As used herein, “Contract Quarter” means each calendar quarter during the Delivery Period and, where the Commencement Date does not fall on the first day of the quarter, the remaining portion of such initial calendar quarter.

B. You shall have ten Business Days from receipt of the statement to contest the amount paid. If You in good faith dispute the correctness of a payment and the accompanying explanatory statement issued by Us, then You and We shall attempt in good faith to resolve the dispute promptly through negotiations. If it is determined that We have underpaid, then We shall pay You the amount that remains due and unpaid within ten Business Days of such determination.

C. As used herein, “Business Day” means any day other than a Saturday, Sunday or a Federal Reserve Bank holiday. A Business Day starts at 8:00 a.m. and closes at 5:00 p.m., local prevailing time in the New Jersey location of the Facility.

12. The General Terms and Conditions are attached hereto as Appendix A, and, by this reference, are made a part hereof.

IN WITNESS WHEREOF, and intending to be legally bound by the terms and conditions of this Agreement, the Parties have executed this Agreement as of the Effective Date hereof.

<p>_____</p> <p>Seller Name</p> <p>By _____</p> <p>Name _____</p> <p>Title _____</p>	<p>ROCKLAND ELECTRIC COMPANY</p> <p>By _____</p> <p>Name _____</p> <p>Title _____</p>
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APPENDIX A

GENERAL TERMS AND CONDITIONS

A. **CONDITIONS PRECEDENT.** Purchaser's obligations under this Agreement shall not become effective unless and until the following conditions are satisfied by Seller, in form and substance satisfactory to Purchaser and its counsel, on or prior to the Commencement Date. Capitalized terms not defined herein shall have the meaning set forth in the Agreement to which this Appendix A is attached and made a part thereof.

1. **Execution and Delivery of Agreement.** This Agreement and any associated material documents or other agreements, including, without limitation, an appropriate interconnection agreement, shall have been completed, duly executed and delivered by Seller to Purchaser.
2. **Other Documentation.** To the extent Purchaser has requested such documentation, Purchaser shall have received all requested Seller's Project Documents (as defined in Section K of these General Terms and Conditions) with respect to Seller's Project, each duly executed by each person that is a party thereto, each of which Seller's Project Documents shall be in full force and effect, and in form and substance satisfactory to Purchaser.
3. **Completion of Seller's Project.** The installation of Seller's Project at the Facility shall have been completed; provided that Seller shall have previously notified Purchaser in writing that Seller's Project is substantially complete, and Purchaser, at its option and discretion, shall have verified within 14 days of Seller's notice that Seller's Project has achieved operation. For purposes of this Agreement, in the event the Commencement Date has not occurred within one year of the Effective Date, this Agreement shall terminate without further obligation or liability to the Parties and the Parties shall be under no further obligation to advance this Agreement. Such one-year period may be extended only by Order of the Board following formal petition to the Board by Seller for such an extension.
4. **OCE Inspection Report.** Seller, at its sole cost and expense, shall have arranged for and caused OCE to inspect and certify Seller's Project and shall have provided to Purchaser a complete copy of (i) the OCE inspection report with respect to Seller's Project installed at the Facility, (ii) the OCE certification of Seller's Project, and (iii) the final "as built" Project Documents.
5. **Registration with PJM-EIS-GATS.** If Seller is required by PJM-EIS-GATS to become an Account Holder, then Seller, at its sole cost and expense, shall have registered Seller's Project with, and shall have subscribed to, PJM-EIS-GATS, and shall have opened an Active Subaccount in accordance with PJM-EIS-GATS Operating Rules for purposes of making Delivery of Transferred SRECs to Purchaser, and Seller shall provide evidence of same to Purchaser.
6. **The SREC Meter.** Seller shall have arranged, at its sole cost and expense, for (i) RECO to install, own and maintain a RECO kilowatt-hour meter ("**SREC Meter**") at Seller's Project located in accordance with RECO's procedures and applicable regulatory standards, and capable of measuring the electricity generated from the continued

operation of Seller's Project throughout the Term so as to be reported to, and subject to audit by, Purchaser and PJM-EIS pursuant to the PJM-EIS-GATS Operating Rules and other PJM-EIS requirements, as applicable, and (ii) net metering arrangements with RECO.

7. Certification Regarding Rebates. Seller shall have certified to Purchaser that it has not received, and will not receive, any rebates with respect to Seller's Project under the Customer On-Site Renewable Energy ("CORE") Program administered by OCE for the period 2001 through 2008.
8. No Defaults. No Event of Default under this Agreement or any other agreement applicable to Seller's Project has occurred and is continuing.
9. Continuing Representations and Warranties. The representations and warranties of Seller contained in this Agreement shall be true and correct as of the Commencement Date with the same effect as though made on such date, except, however: (i) for such changes as are specifically permitted hereunder; and (ii) to the extent made solely as of a previous date, such representations and warranties shall have been true and correct as of such previous date.
10. SREC Contracting Order. The Board's SREC Contracting Order, and/or any subsequent Board Order authorizing RECO to enter into such contracts and agreements, including, in particular, this Agreement, remains in full force and effect.
11. Deposit. Seller's failure to satisfy any of the foregoing Conditions Precedent (other than Condition Precedent 10) shall entitle Purchaser to retain the deposit made by Seller following the bidding process by which Seller's Project was selected to enter into this Agreement with Purchaser. At the Commencement Date, Purchaser shall return the Deposit to Seller, without interest.

B. INSPECTIONS. Prior to the Commencement Date and thereafter during the Term, Purchaser shall have the right, but not the obligation, to make inspections of Seller's Project, and/or retain a third party to make any such inspections on its behalf, and, following the Commencement Date, to verify that Seller's Project is being operated and maintained in accordance with prevailing industry standards. All inspections by Purchaser are for Purchaser's determination of completion of Seller's Project in accordance with Section A.3 above and otherwise for its internal purposes only, and are not to be deemed to constitute Purchaser's approval of Seller's Project and/or its continued operation.

C. TAXES, FEES AND EXPENSES. Seller shall pay any and all costs, fees, and expenses, including any and all Taxes and transaction costs, fees and expenses attributable to or arising from the sale of the Transferred SRECs under this Agreement and in order to (a) obtain the initial certification of for the Transferred SRECs, including any inspections of Seller's Project in connection therewith, and (b) provide for the filing and recording of any instrument delivered by Seller to convey the Transferred SRECs to Purchaser. Purchaser shall pay any and all costs, fees and expenses incurred in connection with (i) the certification of the Transferred SRECs, if any, required with respect to any subsequent sale of the Transferred SRECs by Purchaser, (ii) any other certifications or third party verifications concerning the Transferred SRECs, and (iii) any and all Taxes and transaction costs, fees and expenses attributable to or arising from the subsequent sale of the Transferred SRECs by Purchaser. If Purchaser is required by law or regulation to remit or pay Taxes, which are Seller's responsibility hereunder, Purchaser may deduct the amount of any such Taxes from the sums due to Seller under this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Taxes for which it is exempt under the law and for which it

timely asserts and diligently pursues such exemption, until final determination thereof. “Taxes” means any and all new or existing privilege, sales, use, consumption, excise, transaction, and other taxes or similar charges, and any increases in the same, but “Taxes” does not include income taxes or other similar taxes based on income or net revenues.

D. REPRESENTATION AND WARRANTIES.

1. Seller. Seller represents and warrants that:

i. If Seller is not an individual, it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement, and the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its Constitutive Documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it. “Constitutive Documents” means, with respect to any person that is a corporation, its certificate of incorporation or articles of incorporation, its by-laws and all shareholder agreements, voting trusts and similar arrangements applicable to any of its authorized shares of capital stock; with respect to any person that is a limited partnership, its certificate of limited partnership and partnership agreement; with respect to any person that is a limited liability company, its certificate of formation and its limited liability company agreement; and with respect to any person that is a grantor trust, its trust agreement, in each case, as the same may be amended or modified and in effect from time to time;

ii. This Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms; subject to any equitable defenses, bankruptcy principles, or the like;

iii. It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;

iv. No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

v. It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and

vi. If Seller is the Project Developer, Seller has obtained and provided to Purchaser the written acknowledgement (in the form attached hereto as Appendix C) of the owner of the Facility (“Host”) acknowledging for Purchaser’s benefit that Seller has the right to locate Seller’s Project at the Facility and that Host has (a) no right, title or interest, including, but not limited to, any third party beneficiary rights, in the Transferred SRECs, which are to be sold to Purchaser under this Agreement, (b) no right, title or interest in this Agreement, including, but not limited to any third party beneficiary rights, (c) no

rights against Purchaser, and shall not look to Purchaser, with respect to any claim or damages with respect to any aspect of Seller's Project, including, but not limited to, the construction, operation or maintenance thereof at Host's Facility.

2. Purchaser. Purchaser represents and warrants that:

i. It is duly organized, validly existing and in good standing under the laws of the State of New Jersey, it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement, and the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its Constitutive Documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

ii. This Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms; subject to any equitable defenses, bankruptcy principles, or the like;

iii. It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;

iv. No Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

v. It is acting for its own account pursuant to the directive of the Board as set forth in the SREC Contracting Order, and is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and

vi. It has entered into this Agreement in compliance with the SREC Contracting Order and it has the capacity or ability to make or take delivery of all Transferred SRECs referred to in this Agreement.

E. FURTHER SELLER REPRESENTATIONS AND WARRANTIES. In addition to the representations and warranties of Seller made above, Seller also represents and warrants that (i) the number of Transferred SRECs credited to Seller's PJM-EIS-GATS Active Subaccount will be based on the energy generation from Seller's Project at the Facility based upon the reading of the SREC Meter, (ii) all Transferred SRECs produced by Seller's Project and sold to Purchaser hereunder shall be eligible for use in complying with the RPS as so certified by OCE or such other agent as designated and appointed by the Board from time to time, and (iii) Seller shall promptly notify Purchaser of any change in circumstance, which causes the foregoing representation and warranty to no longer be true, including providing a copy of any notice received from OCE or otherwise indicating or determining that the Transferred SRECs are no longer RPS-eligible ("Non-eligible SRECs"). Purchaser shall not be obligated to pay for Non-eligible SRECs, and Seller shall be responsible to reimburse Purchaser for any payments made to Seller for Non-eligible SRECs.

F. FURTHER ASSURANCES. Each of the Parties hereto agree to cooperate with the other and to provide such information, execute and deliver any instruments and documents and to take such other

actions as may be necessary or reasonably requested by the other Party, which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.

G. PJM-EIS-GATS. This Agreement provides for the use of the PJM-EIS-GATS. For purposes of this Agreement:

1. “PJM” means the PJM Interconnection, a regional transmission organization that coordinates and directs the operation and ensures reliability of the high-voltage electric power system service all or parts of the territory consisting of the states of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia.
2. “PJM-EIS-GATS” means the electronic PJM Environmental Information Service-Generator Attribute Tracking System operated by the PJM-EIS-GATS Administrator to account for the creation, tracking and retirement of SRECs in the PJM “Control Area,” as that term is defined in the PJM-EIS-GATS Operating Rules.
3. “PJM-EIS-GATS Account” means a Party’s SREC account on PJM-EIS-GATS, as identified if applicable.
4. “PJM-EIS-GATS Administrator” means PJM Environmental Information Services, Inc., a wholly-owned subsidiary of PJM Technologies, Inc., or any successor thereto performing similar functions.
5. “PJM-EIS-GATS Operating Rules” means the Generation Attribute Tracking System (PJM-EIS-GATS) Operating Rules adopted by the PJM-EIS-GATS Administrator, as the same may be amended or modified and in effect from time to time by PJM-EIS-GATS.
6. In the event that PJM-EIS-GATS requires Seller to become an “Account Holder,” as defined in the PJM-EIS-GATS Operating Rules, then at Seller’s sole cost and expense, Seller shall become a PJM-EIS-GATS Account Holder and Seller shall open, maintain, or cause to be opened and maintained, until expiration of the Term, a Seller’s Active Subaccount into which Transferred SRECs from Seller’s Project may be deposited, and transferred to and from, in accordance with the applicable PJM-EIS-GATS Operating Rules.
7. If Seller is required to become an Account Holder, then each Month during the Delivery Period, no later than ten (10) Business Days after the Transferred SRECs are deposited into Seller’s PJM-EIS-GATS Account, Seller shall, in accordance with the PJM-EIS-GATS Operating Rules, cause all such Transferred SRECs generated in the relevant Contract Month to be made available for transfer to Purchaser’s PJM-EIS-GATS Active Subaccount. Within five (5) Business Days after Seller has caused all such Transferred SRECs generated in the relevant Contract Month to be made available for transfer to Purchaser’s PJM-EIS-GATS Active Subaccount, Purchaser shall confirm acceptance of the Transferred SRECs in accordance with the PJM-EIS-GATS Operating Rules.
8. If Seller is required to become an Account Holder, then title to the Transferred SRECs shall not pass from Seller to Purchaser until Purchaser confirms acceptance of the Transferred SRECs.

9. In the event that the processes and procedures provided in clauses (6), (7) and (8) above for the delivery of SRECs are no longer authorized by the Board or PJM-EIS-GATS, or both, the Parties agree to comply with, and act under and in accordance with, the Board's then applicable rules and/or Orders pertaining to the creation, issuance, verification, and tracking of SRECs by any successor entity or organization to PJM-EIS-GATS, as may be authorized from time to time by the Board.

H. FORCE MAJEURE.

1. Except as otherwise set forth in this Agreement, neither Party shall be liable for any failure or delay in performance of its respective obligations hereunder during the Delivery Period if and to the extent that such delay or failure is due to a Force Majeure Event. In the event of (i) a Force Majeure Event of 12 consecutive months duration, or (ii) Force Majeure Events cumulatively totaling 24 months, in which Seller fails to deliver any Transferred SRECs from Seller's Project to Purchaser, Purchaser shall have the right to terminate this Agreement without further liability to Seller, by giving Seller 15 Business Days written notice.
2. Force Majeure Event" means any cause beyond the reasonable control of, and not due to the fault or negligence of, the affected Party and which could not have been avoided by the affected Party's reasonable due diligence, including, as applicable, war, terrorism, riots, embargo or national emergency; curtailment of or inability to obtain electric power transmission services or interconnection; fire, flood, windstorm, earthquake, or other acts of God; strikes, lockouts, or other labor disturbances (whether among employees of Seller, its suppliers, contractors, or others); delays, failure, and/or refusal of suppliers to supply materials or services; orders, acts or omissions of the PJM-EIS-GATS Administrator, as applicable; orders or acts of any Governmental Authority (as defined in Section P.2 hereof) (other than those orders and acts addressed under Section P of these General Terms and Conditions); changes in laws or regulations (other than those changes addressed under Section P of these General Terms and Conditions); or any other cause of like or different kind, beyond the reasonable control of Seller. Notwithstanding the foregoing, a Force Majeure Event shall not be based on Seller's ability to sell SRECs at a price greater than the Purchase Price, Purchaser's ability to purchase SRECs at a price below the Purchase Price, Purchaser's inability to resell the SRECs or any events addressed under Section P of these General Terms and Conditions.

I. ASSIGNMENT/DELEGATION. Neither Purchaser nor Seller shall assign this Agreement nor delegate any of its duties hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; otherwise any such assignment or delegation shall be voidable at the option of the other Party. Notwithstanding the foregoing, either Party may, without the prior consent of the other Party, (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements (and without relieving itself from liability hereunder), (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity (A) succeeding to all or substantially all of the assets of such Party, or (B) purchasing the Facility at or on which Seller's Project is located, provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

1. Financing Cooperation. Purchaser agrees, at Seller's sole cost and expense, to (i) cooperate with Seller in responding to or complying with the reasonable requirements or reasonable requests of any Financing Party with respect to the obligations of Purchaser hereunder; provided, however, that such compliance will be only to the extent permitted under the SREC Contracting Order, (ii) provide reasonable assistance to Seller in complying with the reporting requirements set forth in any financing agreements of a Financing Party, and (iii) at any time, and from time to time, during the Term, after receipt of a written request by Seller, execute and deliver to Seller and/or any Financing Party, such estoppel statements (certifying, to the extent true and correct, among other things that (1) this Agreement is in full force and effect, (2) no modifications have been made, (3) no disputes or defaults exist, (4) no events have occurred that would, with the giving of notice or the passage of time, constitute a default under this Agreement, and (5) all amounts then due and owing have been paid) or consents to assignments of this Agreement by Seller as collateral security as may reasonably be required. "Financing Party" means any lenders or other third parties providing construction financing, long-term financing or other credit support in connection with the development, construction or operation of Seller's Project.

J. EVENTS OF DEFAULT; REMEDIES AND DAMAGES.

1. In the event ("Event of Default") of, or arising from, (i) the failure of either Party to make when due, any payment obligation required hereunder if such failure is not remedied within ten Business Days after written notice of such failure is given to the defaulting part (the "Defaulting Party") by the other Party; (ii) the failure of either Party to comply with any or all of its other respective obligations in good faith as herein set forth and such noncompliance is not cured within 30 Business Days after notice thereof to the Defaulting Party; or (iii) either Party (1) filing a petition in bankruptcy, (2) having such a petition filed against it, and (3) becoming otherwise insolvent or unable to pay its debts as they become due, the non-Defaulting Party may establish by written notice to the Defaulting Party a date on which this Agreement shall terminate early. The non-Defaulting Party may suspend performance of its obligations under this Agreement until such Event of Default is cured, or if the Event of Default is a failure to pay as set forth in clause (i) above, until such amounts have been paid, and if the non-Defaulting Party chooses to suspend performance Seller's right to receive payment, if applicable, is such Party's exclusion remedy for a failure to pay under clause (i) above.
2. If Seller fails to deliver any Transferred SRECs in any Contract Month, whether by reason of Force Majeure Event or otherwise, Purchaser shall have no obligation to pay Seller any amount for such Contract Month.
3. Except as otherwise provided herein, all other damages and remedies are hereby waived as to any Events of Default.

K. NO ASSUMPTION OF LIABILITIES. Purchaser shall not assume, and Seller shall retain and be responsible for, any and all liabilities and obligations of Seller of any kind or nature whatsoever with respect to Seller's Project, including, without limitation, any and all liabilities and obligations of Seller under Seller's Project Documents. "Project Documents" means this Agreement, OCE certifications and other evidence of OCE inspections of Seller's Project, and the executed project development agreement or other agreement between Seller and a Project Developer evidencing a legally enforceable obligation to develop, design, procure, and install a solar-powered photovoltaic generation system warranted to operate at the Facility for at least the Term of this Agreement, and, if Seller is a Project Developer, any applicable

leases, easements, power purchase agreements between the Project Developer and Host and licenses evidencing Project Developer's rights of access and rights to develop, design, procure, install and operate a solar-powered photovoltaic generation system at the Facility and warranted to operate at the Facility for at least the Term of this Agreement.

L. LIMITATION OF LIABILITY. WITH RESPECT TO ANY LIABILITY HEREUNDER, NEITHER SELLER NOR PURCHASER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS, OR BUSINESS INTERRUPTION DAMAGES, WHETHER BY STATUTE, IN TORT OR IN CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

M. NOTICES. Notices provided for or required under this Agreement shall be exercised in writing. The Parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or transmitted by facsimile or sent by postage prepaid, certified mail, return receipt requested, or by overnight mail or courier. Notices hand delivered, shall be deemed delivered by the close of the Business Day on which it was hand delivered (unless hand delivered after the close of the Business Day in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending of a Party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. Eastern prevailing time on a Business Day, then such facsimile shall be deemed to have been received on the following Business Day. Notices provided by postage prepaid, certified mail, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon receipt.

N. INDEMNITY. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Transferred SRECs is vested in such Party as provided for in Section 10 of this Agreement. Each Party shall indemnify, defend and hold harmless the other Party against any Taxes for which such Party is responsible under Section C of these General Terms and Conditions.

O. REGULATORY AND TAX CHANGES

1. RECO Cost Recovery. The Parties recognize and agree that this Agreement and the amounts to be paid to Seller for SRECs hereunder, and the incurring of costs by Purchaser associated with this Agreement, are premised upon and subject to (i) RECO's continuing ability to timely and fully recover from its customers all amounts paid to Seller hereunder as well as administrative costs associated with this Agreement and all other amounts authorized to be recovered by RECO in the SREC Contracting Order, and (ii) the continuing validity of the certification and recognition by the Board of the SRECs generated by Seller's Project for purposes of RPS compliance, throughout the Term hereof.
2. Regulatory Changes. If the regulatory framework in effect as of the date hereof governing this Agreement and the program under which it was executed, whether such regulatory framework is set forth in regulations, the SREC Contracting Order, the Board Order approving this Agreement or otherwise, is amended or suspended by the Board or any other Governmental Authority and/or is otherwise no longer in force (collectively, a "Change" in the regulatory framework), RECO will continue to purchase SRECs from Seller ONLY IF all of the following conditions are met: (a) Seller continues to produce and sell SRECs in accordance with this Agreement; (b) the terms in this Agreement

governing the purchase and sale of SRECs remain in full force and effect; (c) despite the Change in the regulatory framework, RECO continues to receive rate treatment and cost recovery, in terms of amounts to be recovered for its SREC-based contracting program, including, without limitation, recovery of amounts paid under this Agreement to purchase SRECs, administrative costs, carrying costs, additional recoveries authorized by the Board in the SREC Contracting Order, and incentives, if any, and timeliness of recovery, that is no worse for RECO than was provided as of the date hereof. In the event that there is a Change in the regulatory framework and all of the foregoing conditions (a), (b) and (c) are not met, then, either: (x) the Parties shall promptly thereafter commence negotiations, which shall not exceed a period of 30 days, to amend this Agreement, if possible, to conform to the Change in the regulatory framework in a manner that does not cause RECO or its customers to be in a worse position than they would have been in had the regulatory framework and the rate treatment and cost recovery not been changed; or (y) upon 30 days prior written notice to RECO, Seller may terminate this Agreement and neither Party shall have any further liability or obligation hereunder except with respect to amounts due prior to the date of such termination. In the event that the Parties cannot negotiate an amendment to this Agreement that meets the requirements of clause (x) above, this Agreement shall terminate at the expiration of the 30-day negotiation period. “Governmental Authority” means the federal government, any state or local government or other political subdivision thereof (whether federal, state or local), any court and any administrative agency or other regulatory body, instrumentality, authority or entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

3. Further Understandings. Notwithstanding the foregoing provisions of Section O.2 above, (a) Purchaser shall not be obligated to pay Seller hereunder during the pendency of any appeal with respect to any such Change in the regulatory framework, and (b) any termination of this Agreement or any amendment to this Agreement shall be effective retroactively from the date such Change in the regulatory framework, and Seller shall reimburse Purchaser for any amounts paid to Seller which exceed the amounts that should have been paid pursuant to the foregoing provisions of Section O.2 as a result of such final and non-appealable order regarding a Change in the regulatory framework.

P. FORWARD CONTRACT. Purchaser and Seller each acknowledge that, for purposes of this Agreement, it is a “forward contract merchant” and that all transactions pursuant to this Agreement constitute “forward contracts” within the meaning of the United States Bankruptcy Code.

Q. NETTING AND SETOFF. If Purchaser and Seller are required to pay any amount under this Agreement on the same day or in the same month, then such amounts with respect to each Party may be aggregated and the Parties may discharge their obligations to pay through netting, in which case the Party, if any, owing the greater aggregate amount shall pay to the Party owed the difference between the amounts owed. Each Party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such Party has or may be entitled to (whether by operation of law or otherwise). The obligations to make payments under this Agreement and/or any other contract between the Purchaser and Seller, if any, may be offset against each other, set off or recouped therefrom.

R. WAIVER. The failure of Purchaser or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights

hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect for the term of this Agreement.

S. ENTIRE AGREEMENT. This Agreement, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between Purchaser and Seller with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Purchaser and Seller.

T. COMPLIANCE WITH LAWS. Seller and Purchaser shall comply with the provisions of all laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a Governmental Authority relating to this Agreement and the transactions hereunder.

U. GOVERNING LAW AND VENUE. This Agreement shall be construed, enforced, and performed in accordance with the laws of the State of New Jersey, without recourse to principles governing conflicts of law. Any lawsuit arising in connection with this Agreement shall be brought only in the state and federal courts of New Jersey.

V. AUDITING. During the Term, Purchaser may, at reasonable times and on reasonable notice, audit Seller's records pertaining to Seller's Project and the Transferred SRECs, and Seller shall maintain reasonable records relating to this Agreement for a period of two (2) years following termination of this Agreement.

APPENDIX B

DESCRIPTION OF SELLER'S PROJECT, SPECIFICATION OF LOCATION OF SELLER'S PROJECT AND DETAILS REGARDING THE SIZE, TYPE, MANUFACTURER AND RELATED DETAILS REGARDING THE QUALIFIED SOLAR PHOTOVOLTAIC GENERATION UNIT

APPENDIX C

HOST'S ACKNOWLEDGEMENT AND CERTIFICATION