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ON-BILL RECOVERY PROGRAM DECLARATION

THIS DECLARATION is made as of _____ by _____, whose address is _____, and _____, whose address is _____ (“Owner” or, collectively, “Owners” or “I”).

Pursuant to the Power New York Act of 2011 (Chapter 388 of Laws of 2011), NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, a public authority of the State of New York constituting a public benefit corporation, with offices at 17 Columbia Circle, Albany, New York 12203-6399 (“NYSERDA”) established an on-bill recovery mechanism to provide loans to customers of gas and/or electric utilities for certain energy efficient improvements to property and to permit the repayment of those loans through the customer’s utility bill (the “Program”).

NYSERDA has made a loan to _____ in the principal amount of \$ _____, plus interest (the “Loan”) as evidenced by a Note, dated _____ (the “Note”) for a term of _____ years. The Loan has been made pursuant to the Program to pay for energy efficiency improvements designed to reduce energy costs (the “Improvements”) to the property, and the buildings and improvements on that property, more fully described on Schedule A which is attached to and made a part of this Declaration (the “Property”).

In order to further the purposes of the Program, including, but not limited to, providing notice to and facilitating the ability of subsequent owners of the Property who will be utilizing and/or benefiting from the Improvements to pay any remaining amounts due under the Loan, Owners have agreed to make this Declaration which shall be recorded in the book of deeds maintained by the County Clerk or the Office of the Register in the county in which the Property is located.

NOW, THEREFORE, Owners, as the lawful owner of the Property and holding the primary meter account responsibility, agree as follows:

1. Owners acknowledge and agree that the Program is intended to promote energy efficient improvements to the Property which are designed to reduce Owner's energy costs. However, Owners also acknowledge that making the Improvements to the Property may not, in fact, result in lower monthly energy costs over time based on additional factors that contribute to monthly energy costs.

2. Owners further acknowledge and agree that, except as otherwise provided in the Note, the Loan shall be repaid through payments for a special charge on Owners' periodic electric and/or gas utility bill.
3. Owners further acknowledge and agree that, unless fully satisfied prior to sale or transfer of the Property, (a) the loan repayment charges on the utility meter for the Improvements provided to or at the Property shall survive any changes in ownership, tenancy or utility meter account responsibility with respect to the Property; (b) until fully satisfied, the loan repayment charges shall constitute the obligation of the person responsible for the utility meter account; and (c) arrears in on-bill recovery charges at the time the utility meter account is closed or the utility meter account is transferred shall remain the responsibility of the person responsible for the utility meter account that is closed or transferred, unless those arrears in on-bill recovery charges are expressly assumed by a subsequent purchaser of the Property.
4. This Declaration is filed pursuant to Section 1896(5) of the Public Authorities Law of the State of New York.
5. If any Owner is a corporation, partnership, limited liability company, trust, unincorporated association or other entity, such Owner hereby certifies that the execution and delivery of this Declaration and the performance of its obligations under this Declaration have been duly and lawfully authorized by all entity action and that this Declaration constitutes its legal and valid obligation, enforceable against it in accordance with its terms.
6. This Declaration is governed by and construed in accordance with the law of New York State.
7. Owners acknowledge and agree that this Declaration does not constitute, nor will it be deemed to constitute, a mortgage and does not create, nor will it be deemed to create, a security interest or lien of any kind or character whatsoever on the Improvements or the Property or any interest in the Improvements or the Property.
8. Until all amounts due under the Note have been paid in full, Owners shall not terminate this Declaration. At such time as all amounts due under the Note have been paid in full, a declaration of repayment and full satisfaction will be recorded terminating this Declaration in its entirety.

Signature Page Follows

BY SIGNING BELOW, we agree to the promises, covenants and agreements contained in this Declaration of Covenants.

Witnesses:

- Owner (Seal)

- Owner (Seal)

[Insert Name of entity Owner above]

By:

Name: _____

Title: _____

NOTE: THIS DECLARATION OF COVENANTS MUST BE SIGNED BY EACH PERSON OR ENTITY THAT IS AN OWNER OF THE PROPERTY WHETHER OR NOT SUCH PERSON OR ENTITY SIGNED THE NOTE.

STATE OF NEW YORK)
COUNTY OF _____) ss.:

On the _____ day of _____, in the year 20___, before me, the undersigned, a Notary Public in and for said State, personally appeared

_____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF _____) ss.:

On the _____ day of _____, in the year 20___, before me, the undersigned, a Notary Public in and for said State, personally appeared

_____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

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Notary Public

Schedule A
Legal Description of Property
