**EXHIBIT [\_\_\_]**

**MODIFICATIONS TO MULTIFAMILY LOAN AND SECURITY AGREEMENT**

**(Mortgage Loan with Installed Solar Photovoltaic System)**

**[DRAFTING NOTE: USE THIS FORM ONLY IF BORROWER HAS ALREADY INSTALLED A SOLAR PHOTOVOLTAIC SYSTEM, AND THE MORTGAGE LOAN IS NOT A GREEN REWARDS MORTGAGE LOAN.]**

The foregoing Loan Agreement is hereby modified as follows:

1. Capitalized terms used and not specifically defined herein have the meanings given to such terms in the Loan Agreement.
2. The Definitions Schedule is hereby amended by adding the following new definitions in the appropriate alphabetical order:

“**Battery Storage System**” means any equipment installed on the Mortgaged Property containing lithium ion batteries or equivalent technology capable of storing electricity received from the electric grid or a Solar PV Facility, delivering stored electricity for consumption on the Mortgaged Property.

“**EPC Contract**” means one (1) or more engineering, procurement, and construction contracts for the design and installation of the Solar PV Facility and any Battery Storage System.

“**Public Utility**” means any Person subject to regulation as an electric utility by any Governmental Authority.

“**Renewable Energy Certificate**” or “**REC**” means a market-based instrument that represents the property rights to the environmental attributes of a specific amount of electricity generated from a renewable energy facility, as further defined by applicable federal, state or local laws, utility tariffs, or market rules.

“**Solar PV Facility**” means equipment installed on the Mortgaged Property capable of producing electricity from photovoltaic energy.

“**Solar Renewable Energy Certificate**” or “**SREC**” means a Renewable Energy Certificate associated with the generation of a specific amount of electricity from a Solar PV Facility, as further defined by applicable federal, state or local laws, utility tariffs, or market rules. Solar Renewable Energy Certificates are typically issued when one (1) megawatt-hour (MWh) of electricity is generated and delivered to the electric grid from a solar renewable energy resource.

“**Upfront REC/SREC Contract**” means a contract in which Borrower receives a lump-sum payment in exchange for the rights to the Renewable Energy Certificates or Solar Renewable Energy Certificates produced by a Solar PV Facility and/or any Battery Storage System for a specified term.

1. The Definitions Schedule is hereby amended by modifying the following definition to read as follows:

“**Governmental Authority**” means any court, board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over Borrower or the Mortgaged Property or the use, operation or improvement of the Mortgaged Property, including any court, board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, with authority to regulate or oversee the generation (including siting), storage, transmission, sale, or distribution of electricity, including the Federal Energy Regulatory Commission and any state public service commission, public utilities commission, or like body.

1. The following Article is hereby added to the Loan Agreement as Article [\_\_\_] (Solar PV Facility):

**Article [\_\_\_]
SOLAR PV FACILITY**

**Section [\_\_].01 Representation and Warranties.**

**(a) Ownership and Income.**

Borrower represents and warrants that:

* + 1. no Person other than Borrower has any possessory ownership, Lien, or other interest in the Solar PV Facility and/or any Battery Storage System;
		2. no Person has an option, right of first refusal, or right of first offer (except as required by applicable law) to purchase the Solar PV Facility or any Battery Storage System, or any interest in the Solar PV Facility or any Battery Storage System;
		3. Lender has been notified if the financing for the Solar PV Facility and/or any Battery Storage System includes the use of any federal or state tax credits that are still being claimed by Borrower; and
		4. Lender has been notified of all revenue received by Borrower with response to the sale of energy from the Solar PV Facility, and has been provided copies of all agreements with respect to the sale or transmission of energy for use by other than the Mortgaged Property.

**(b) Design and Installation of Solar PV Facility and Battery Storage System.**

Borrower represents and warrants that:

* + 1. any Battery Storage System was designed only for on-site use (e.g., peak shaving), and Borrower has not entered into any agreement committing the Mortgaged Property to an arrangement with any utility, third-party, or off-site use regarding any Battery Storage System;
		2. if the Solar PV Facility is carport-mounted or other structures have been installed to support the Solar PV Facility, such structures were specifically designed for that purpose and suitable for the Mortgaged Property;
		3. Borrower has obtained, for the lawful use and operation of the Solar PV Facility and any Battery Storage System, all required permits, licenses, and certificates necessary to comply with all (A) zoning and land use statutes, laws, ordinances, rules, and regulations; (B) applicable health, fire, safety, and building codes; and (C) utility tariffs and laws governing the generation, storage, transmission, and distribution of electricity, including agreements necessary to participate in net metering, where available, and to register Renewable Energy Certificates or Solar Renewable Energy Certificates;
		4. Borrower has provided to Lender, prior to the date hereof, originals or copies of all documents necessary to evidence that the Solar PV Facility and any Battery Storage System have been installed, are compliant with all utility tariffs and laws governing the generation, storage, transmission, and distribution of electricity, and are capable of producing electricity for consumption on the Mortgaged Property and, where applicable, delivery to the electric grid, including the following:

(A) if notice of commercial operation or in-service date for the Solar PV Facility has not been provided to Borrower, the EPC Contract;

(B) an executed interconnection agreement with the local distribution company or utility;

(C) an executed net metering agreement with the local distribution company or utility, if applicable;

(D) any notice of commercial operation or in-service date provided to Borrower by the developer, engineering contractor, or operator of the Solar PV Facility and any Battery Storage System; and

(E) a certification from such developer, engineering contractor, or operator that the Solar PV Facility and any Battery Storage System are mechanically complete and ready to begin operation, which certification shall state, at a minimum, that:

(i) all materials and equipment for the Solar PV Facility and any Battery Storage System have been installed;

(ii) all systems required to operate and monitor the Solar PV Facility and any Battery Storage System have been installed;

(iii) all equipment and systems can be operated in a safe and prudent manner and have been installed in a manner that does not void any equipment or system warranties; and

(iv) all required permits and approvals have been obtained and final inspections have been completed, including electrical and building code inspections; and

* + 1. the Mortgaged Property remains connected to the electric grid.

**(c) Renewable Energy Certificates or Solar Renewable Energy Certificates.**

If the Solar PV Facility and any Battery Storage System are certified as a qualified renewable energy generator producing Renewable Energy Certificates, Solar Renewable Energy Certificates, or other tradable environmental characteristics, Borrower represents and warrants that: **[DRAFTING NOTE: REVISE REPRESENTATION AS NECESSARY IF BORROWER HAS NOT ENTERED INTO ANY REC OR SREC]**

* + 1. Borrower has provided to Lender:

(A) the certification number for each state where the Solar PV Facility and any Battery Storage System are registered as a qualified renewable energy generator along with supporting documentation; and

(B) evidence that the Solar PV Facility and any Battery Storage System have been properly registered with any state-authorized registry which creates and tracks Renewable Energy Certificates or Solar Renewable Energy Certificates;

* + 1. all contracts executed by Borrower for sale of Renewable Energy Certificates or Solar Renewable Energy Certificates associated with the Solar PV Facility and/or any Battery Storage System, or that grants any Person other than Borrower an interest in the Renewable Energy Certificates or Solar Renewable Energy Certificates produced by the Solar PV Facility and/or any Battery Storage System, including brokerage contracts, annuity contracts, and Upfront REC/SREC Contracts, have been delivered to, and approved by, Lender prior to execution of this Loan Agreement;
		2. it has not entered into any contract or financing arrangement for or involving any Renewable Energy Certificates or Solar Renewable Energy Certificates that grants any other party a property interest, including any lien or other security interest, in the Solar PV Facility or any Battery Storage System; and
		3. Borrower has not entered into any Upfront REC/SREC Contract, annuity contract, brokerage contract, or similar contract that could:

(A) encumber Lender’s rights to Renewable Energy Certificates or Solar Renewable Energy Certificates produced by the Solar PV Facility and/or any Battery Storage System in the event Lender takes title to the Solar PV Facility and/or any Battery Storage System through a Foreclosure Event;

(B) require the Solar PV Facility and/or any Battery Storage System to continue producing Renewable Energy Certificates or Solar Renewable Energy Certificates after a Foreclosure Event; or

(C) expose Lender to liability for the failure of the Solar PV Facility and/or any Battery Storage System to produce Renewable Energy Certificates or Solar Renewable Energy Certificates after a Foreclosure Event.

**(d) Public Utility Status.**

Borrower represents and warrants that it has taken no action toward becoming or being characterized as a Public Utility.

**Section [\_\_].02** **Covenants.**

**(a) Ownership and Income.**

Borrower covenants that:

* + 1. at all times during the Loan Term, no Person other than Borrower shall have any possessory ownership, Lien, or other interest in the Solar PV Facility or any Battery Storage System, and no Person shall be granted an option, right of first refusal, or right of first offer (except as required by applicable law) to purchase the Solar PV Facility or any Battery Storage System, or any interest in the Solar PV Facility or any Battery Storage System; and
		2. Borrower will not enter any new or renewal agreement for the sale and/or transmission of energy from the Solar PV Facility without the prior approval of Lender.

**(b) Installation of Solar PV Facility and Battery Storage System.**

Borrower covenants that:

* + 1. Borrower shall obtain and maintain in full force and effect, for the lawful use and operation of the Solar PV Facility and any Battery Storage System, all required permits, licenses, and certificates necessary to comply with all (A) zoning and land use statutes, laws, ordinances, rules, and regulations; (B) applicable health, fire, safety, and building codes; and (C) utility tariffs and laws governing the generation, storage, transmission, and distribution of electricity, including agreements necessary to participate in net metering, where available, and to register Renewable Energy Certificates or Solar Renewable Energy Certificates;
		2. the Mortgaged Property shall remain connected to the electric grid regardless of the energy production of the Solar PV Facility; and
		3. **[DRAFTING NOTE: INSERT IF ANY PORTION OF THE SOLAR PV FACILITY IS ROOF-MOUNTED AND BORROWER CAN CONFIRM THE INSTALLATION DID NOT VOID ROOF WARRANTY:** the installation of the Solar PV Facility will not void or alter the warranty covering each roof at the Mortgaged Property on which any of the Solar PV Facility will be installed.**]** **[DRAFTING NOTE: INSERT IF ANY PORTION OF THE SOLAR PV FACILITY IS ROOF-MOUNTED AND BORROWER CANNOT CONFIRM WHETHER THE INSTALLATION MAY HAVE VOIDED ANY ROOF WARRANTY AND THE EPC CONTRACT COVERS LIABILITY FOR ROOF ISSUES:** the EPC Contract for the installation of the Solar PV Facility shall include a provision whereby the Person responsible for the design and installation of the Solar PV Facility assumes liability for any roof leaks or roof integrity issues that occur during or after the installation of the Solar PV Facility for the duration of the remaining roof warranty period.**]**

**(c) Renewable Energy Certificates or Solar Renewable Energy Certificates.**

If the Solar PV Facility and/or any Battery Storage System becomes certified after the date hereof as a qualified renewable energy generator producing Renewable Energy Certificates, Solar Renewable Energy Certificates, or other tradable environmental characteristics, Borrower covenants that:

* + 1. Borrower shall provide to Lender:

(A) the certification number for each state where the Solar PV Facility and/or any Battery Storage System are registered as a qualified renewable energy generator along with supporting documentation; and

(B) evidence that the Solar PV Facility and/or any Battery Storage System have been properly registered with any state-authorized registry which creates and tracks Renewable Energy Certificates or Solar Renewable Energy Certificates;

* + 1. any contract Borrower executes for sale of Renewable Energy Certificates or Solar Renewable Energy Certificates associated with the Solar PV Facility and/or any Battery Storage System, or that grants any Person other than Borrower an interest in the Renewable Energy Certificates or Solar Renewable Energy Certificates produced by the Solar PV Facility and/or any Battery Storage System, must be approved by Lender prior to execution. Such contracts shall include brokerage contracts, annuity contracts, and Upfront REC/SREC Contracts; and
		2. Borrower shall not enter into any Upfront REC/SREC Contract, annuity contract, brokerage contract, or similar contract that could:

(A) encumber Lender’s rights to Renewable Energy Certificates or Solar Renewable Energy Certificates produced by the Solar PV Facility and/or any Battery Storage System in the event Lender takes title to the Solar PV Facility and any Battery Storage System through a Foreclosure Event;

(B) require the Solar PV Facility and/or any Battery Storage System to continue producing Renewable Energy Certificates or Solar Renewable Energy Certificates after a Foreclosure Event; or

(C) expose Lender to liability for the failure of the Solar PV Facility and/or any Battery Storage System to produce Renewable Energy Certificates or Solar Renewable Energy Certificates after a Foreclosure Event.

**(d) Operations and Maintenance Requirements.**

Borrower covenants that:

* + 1. the Solar PV Facility and any Battery Storage System are covered for hazards, catastrophic risk, and general liability as required by this Loan Agreement under either Borrower’s standard insurance policy or any rider obtained by Borrower;
		2. if any portion of the Solar PV Facility or any Battery Storage System is located in a Special Flood Hazard Area, Borrower has obtained adequate flood insurance as required by Lender; and
		3. the Solar PV Facility and any Battery Storage System are maintained in good working order and operated in accordance with industry best practice and applicable federal, state and local laws, utility tariffs and market rules.

**(e) Public Utility Status.**

Borrower covenants that:

* + 1. Borrower shall take no action (including causing third-party action) toward becoming or being characterized as a Public Utility;
		2. Borrower shall not:
			- 1. hold itself out as being a Public Utility or seek any benefit of utility status;
				2. provide electric energy to anyone other than a tenant or local electric utility;
				3. cross any public streets or rights of way in its furnishing of electricity;
				4. collect a premium for solar electricity furnished to tenants; or
				5. sell electricity to any party other than the local distribution utility pursuant to net metering or community solar arrangements, as permitted by governmental regulations and utility tariffs; and
		3. Borrower shall promptly notify Lender if any communications are made to Borrower by tenants, Governmental Authorities, or third parties suggesting Borrower may be operating as a Public Utility, or if Borrower otherwise becomes aware it may be operating as a Public Utility.

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