

CON EDISON

FORM OF LETTER OF CREDIT

IRREVOCABLE TRANSFERABLE STANDBY LETTER OF CREDIT

DATE OF ISSUANCE:

Beneficiary:

Consolidated Edison Company of New York, Inc.

4 Irving Place

New York, NY 10003

Attn: \_\_\_\_\_

Re: Letter of Credit No. \_\_\_\_\_

We (the “Issuing Bank”) hereby establish this Irrevocable Transferable Standby Letter of Credit (the “Letter of Credit”) in favor of Consolidated Edison Company of New York, Inc. (“Beneficiary”) for the account of [*insert name of developer*] (the “Applicant”), for drawings in the aggregate amount not exceeding \_\_\_\_\_ United States Dollars (\$\_\_\_\_\_), available to Beneficiary at sight upon demand at our counters at [**Location**] on or before the expiration hereof against presentation to us of any of the following statement, dated and purportedly signed by an authorized representative of the Beneficiary:

“We hereby demand payment for US\$[**Insert amount at time of drawing**] under [**insert name of Issuing Bank**] Letter of Credit No. [ ] dated [ ], as: [insert number 1, 2, 3, or 4 from below as applicable at time of drawing]

1. “An Event of Default (as defined in the \_\_\_\_\_ Agreement dated as of \_\_\_\_\_, 20\_\_ between Beneficiary and the Applicant, as the same may have been amended (the “Agreement”)) has occurred and is continuing with respect to the Applicant under the Agreement”;

2. “This Letter of Credit expires in thirty (30) days or less and Applicant has failed to renew or replace this Letter of Credit”;

3. “Beneficiary has received notice from Issuing Bank of its election not to extend the Expiration Date of this Letter of Credit for an additional one year period, this Letter of Credit expires in thirty (30) days or less and Applicant has failed to replace this Letter of Credit”; or

4. "The Issuing Bank does not meet the criteria for an acceptable issuer set forth in the definition of "Letter of Credit" in the Agreement and the Applicant has failed to replace this Letter of Credit within the time period required under the Agreement".

The amount which may be drawn by you under this Letter of Credit shall be automatically reduced by the amount of any previous drawings that have been duly honored by the Issuing Bank. Partial and multiple drawings are permitted hereunder.

This Letter of Credit shall expire at 5:00 P.M. New York City time on \_\_\_\_\_, 20\_\_ or any expiry date extended in accordance with the terms hereof ("Expiration Date"). However, the Expiration Date of this Letter of Credit shall automatically be extended without amendment for a period of one year from the present or any future Expiration Date unless, at least 60 days before any Expiration Date, the Issuing Bank notifies Beneficiary in writing that the Issuing Bank has elected not to extend this Letter of Credit beyond the current Expiration Date (such notice is referred to as "Notice of Non-Renewal"). Any such Notice of Non-Renewal shall be sent by registered mail or overnight courier to the addresses set forth below, with a copy also sent by email (receipt acknowledgment requested) to the email addresses set forth below:

Consolidated Edison Company of New York, Inc.  
4 Irving Place  
New York, NY 10003  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_

with a copy to:

Consolidated Edison Company of New York, Inc.  
4 Irving Place, New York, NY 10003  
Attention: \_\_\_\_\_  
Email: \_\_\_\_\_

or to such other address(es) as Beneficiary may from time to time specify in a written notice to the Issuing Bank.

Drawings by facsimile are acceptable and should be faxed to: \_\_\_\_\_ . In the event of facsimile presentation, a telephone advice may be made to (but is not required) [insert name of person or department] at [insert telephone #] or [may insert 2nd telephone #] (or at such other facsimile or telephone number as may be specified from time to time by the Issuing Bank). Beneficiary's failure to seek such a telephone confirmation does not affect the Issuing Bank's obligation to honor such a presentation. A presentation via facsimile shall be effective upon receipt of the facsimile. The original documents do not need to  
Document Number: 851648

be forwarded to the Issuing Bank. Such documents presented by facsimile transmission are deemed to be effective as originals and the terms thereof, as so presented, shall prevail in the event of any discrepancy between the terms thereof and the originals when and if delivered to the Issuing Bank.

In addition to drawings by facsimile, payment under this Letter of Credit will be effected per your instructions against a Beneficiary Statement presented at **\*\*[ISSUING BANK TO PROVIDE NYC ADDRESS]\*\*** Attn: \_\_\_\_\_ (“Place of Presentation”). Such presentation may be made (i) in person, (ii) by first class certified and registered U.S. mail, or (iii) by overnight mail.

If requested by Beneficiary in its demand for payment hereunder, payment under this Letter of Credit shall be made by wire transfer of funds to Beneficiary’s account in a bank on the Federal Reserve wire system in accordance with wire transfer instructions set forth in such demand for payment, provided that the Issuing Bank shall have no liability for any errors in such wire transfer instructions.

We hereby agree with you that documents drawn under and in compliance with the terms of this Letter of Credit shall be duly honored upon presentation as specified. In addition, our undertaking under this Letter of Credit is in no way contingent upon reimbursement with respect to any drawing hereunder or upon our ability to perfect any security interest or other lien.

This Letter of Credit shall be governed by the International Standby Practices – ISP 98, 1998 Version, International Chamber of Commerce Publication No. 590 (the “ISP”), provided, however, that where the ISP is silent, this Letter of Credit shall be governed by New York law, without reference to its choice of law provisions; and provided further that to the extent that the terms hereof are inconsistent with the provisions of the ISP, including Rule 2.01, Rule 5.01 and/or Rule 3.12 of the ISP, the terms of this Letter of Credit shall govern.

Notwithstanding Rule 2.01 and/or Rule 5.01 of the ISP, if a drawing is made by Beneficiary hereunder on a Business Day (as defined in the ISP) before 2:00 P.M. (New York City time) payment shall be made of the amount specified in immediately available funds by the close of business (New York City time) on the following Business Day; if a drawing is made by Beneficiary hereunder on a Business Day after 2:00 P.M. (New York City time) payment shall be made of the amount specified in immediately available funds by the close of business (New York City time) on the second following Business Day.

Upon our receipt of an indemnity letter reasonably acceptable to us signed by your purportedly authorized representative certifying that the original of this Letter of Credit has been lost, stolen, mutilated or destroyed, we will promptly issue to you a certified true copy of this Letter of Credit which shall constitute an original Letter of Credit for all purposes hereof.

This Letter of Credit is transferable in its entirety. We will affect any transfer immediately upon presentation to us of this Letter of Credit and our transfer request form, duly completed and signed. A transfer form will be provided upon request. Such transfer will be affected at no cost to Beneficiary. Any transfer fees assessed by us will be payable solely by Applicant, and the payment of any transfer fees will not be a condition to the validity or effectiveness of the transfer of this Letter of Credit. Any subsequent Letter of Credit issued in favor of a transferee as a result of a transfer of this Letter of Credit shall include the same terms and conditions as this Letter of Credit save for the names of the Beneficiary and date of issuance.

All Issuing Bank charges are for the account of Applicant.

A copy of any communications to the Issuing Bank with respect to this Letter of Credit shall be addressed to the Place of Presentation and refer to "Letter of Credit No. [\_\_\_\_\_]."

A copy of all communications to the Beneficiary shall also be sent by overnight mail or overnight courier addressed to: Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, NY 10003, Attention: \_\_\_\_\_, with a copy also sent by email (receipt acknowledgment requested) to: \_\_\_\_\_.

This Letter of Credit may not be amended, changed or modified, or limited by reference to any document, instrument or agreement referred to herein or in which this Letter of Credit is referred to, or to which this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument or agreement, without the express written consent of the Beneficiary, the Issuing Bank and the Applicant.

[NAME OF ISSUING BANK]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_