February 24, 2020

VIA ELECTRONIC FILING

Kathleen H. Burgess
Secretary
New York State Public Service Commission
State of New York
3 Empire State Plaza
Albany, NY 12223
secretary@dps.ny.gov

Re: Matter 17-02273 IN THE MATTER OF REGISTRATION FOR DER SUPPLIERS

Dear Secretary Burgess,

Please find the following amendments to the above referenced FAC Solar, LLC DER registration submitted January 21st, 2020.

- Revised Subscription Agreement, including notice of customer's rights under HEFPA and information regarding contacting the Department of Public Service for dispute resolution, exhibit 1.

Please let us know if you have any further questions or comments.
Thank you,

Mcgowan Southworth

Consultant
FAC Solar, LLC
718.715.9617

EXHIBIT 1



Community and Shared Solar Subscription Agreement
AND DER Service Provider Consent Form

(this "Agreement")

Buyer ("you" and "your")

Name: _____

Phone: _____

*Mailing Address:*_____

City/Town, State, Zip: _____

*Email:*_____

Buyer Utility Information

Electric Company: Con Edison

Electric Meter Account #: _____

Service Address (if different): _____

City/Town, State, Zip: _____

Terms & Conditions:

i. You pay only your monthly electric bill.
ii. The term of your Agreement is month to month.
iii. You can cancel your subscription without penalty at any time with 30 days' notice

Discount and Fees

i. Your Discount: xx % of the Credits you receive on your electric bill
ii. You do not pay fees to subscribe or participate
iii. You do not pay fees to cancel your subscription

Seller

FAC Solar, LLC
621 DeGraw Street
Brooklyn, NY 11217
Email: FACSOLAR@FIFTHAVE.ORG

Community Shared Solar Project Information

Community solar array ("Project"):

Solar Array Located at

_____

(referred to in this Agreement as the "Project")

Community Solar Array Owner: FAC Solar LLC

Capacity of the Array: xxxx kilowatts-DC

Electric Company: Con Edison

Load Zone: J

Anticipated Start Up Date: _____

Buyer's Share of Production from the Project

Xxx % of total monthly production

This document describes the key terms of your contract to purchase solar electricity benefits from a community solar electricity generation system (the "Disclosure Form"). Read this document carefully so that you fully understand the contract. Under the contract, you will not own the system or any part of the system. You will purchase energy generated by the system during the term of the contract. In the event that the terms in this statement conflict with terms appearing elsewhere in your contract, the terms in this statement are controlling. This Disclosure Form is part of your contract (together, the "Agreement").

Who is FAC Solar and What is Shared Solar: *FAC Solar is a community-focused shared solar company owned by the Fifth Avenue Committee, Inc. FAC Solar has been created to own, operate and distribute the benefits of solar electricity generation to Affordable Housing Customers and Utility Customers who do not own their homes and may not be able to own and install solar of their own.*

Who can participate? *Any NYC Resident who is currently a Con Edison customer. Anyone can sign up, but priority is given to people who live in affordable housing and/or in multi-family buildings.*

Why join? *You will receive a discount on your monthly bill for electricity produced by the Community Solar Array.*

How does it work? *By signing this agreement, you will become a FAC Solar, LLC community solar subscriber saving money on your utility bill. Your subscription entitles you to receive a portion of the value of the electricity produced by the Community Solar Array credited to your Con Edison account. You will pay Seller for the credits you received from your project, but you will only pay xx% of the value of those credits saving you an average xxx% each month.*

Your Con Edison Account will not change. But, your monthly bill will come directly to FAC Solar. FAC Solar is responsible for apportioning and allocating the solar credits to you. You will see your credits, and savings, on a new bill sent to you from FAC Solar. When you receive your bill, you will pay FAC Solar the total amount due and we will pay Con Edison and the shared solar project on your behalf.

If the credits you receive are greater than your electric bill, you will only pay for the credits you use in that month. Unused credits will roll over until they can be applied to one of your next monthly bills.

FAC Solar will estimate the credits that you will need to cover most of your electric bill over a year by looking at your electricity usage in the previous year, and will adjust your credits each quarter so that you will have enough credits to cover most of your electric bill over the course of a year (as projected from your previous electricity usage), and will allocate credits to your account based on those estimates. The credits applied will on average cover most of your electricity costs over a year. Each month your credits will vary as a result of the weather and seasonal changes.

In becoming a Subscriber, and by signing this agreement, you agree to set up an account with FAC Solar, LLC and consent to FAC Solar becoming your utility account billing provider and authorize FAC Seller to pay for the credits that are used to pay your electric bill each month. You agree that you will sign any required forms in order to authorize electronic withdrawal within 30 days after entering into this Agreement or within 30 days after receiving notice that your current payment arrangements will be discontinued.

This Agreement begins on the date you and sign this Agreement and continues until September 1, 2044, unless terminated by either Party. You will have an option to renew this Agreement after 2044.

What if I need to terminate this agreement? *Don't worry. You can cancel your subscription with one month's written notice with no penalty. You will only have to pay for any remaining credits that you have not paid for yet.*

Your Rights under the New York Home Energy Fair Practices Act (HEFPA). *You are hereby notified that as a residential customer you may have certain rights under the New York Home Energy Fair Practices Act (HEFPA). The services provided by us to you are governed by the terms and conditions of this Agreement and HEFPA for residential customers. We will provide at least 15 days' notice prior to the cancellation of your service. In the event of non-payment of any charges owed to us, you may be subject to termination of service and the suspension of service under procedures approved by the DPS. You may obtain additional information by contacting us at (518) 358-9020 or the DPS at 1-800-342-3377, or by writing to the DPS at: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223, or through its website at: http://www.dps.state.ny.us. The State of New York Public Service Commission may in the future issue guidelines regarding the "Regulation and Oversight of Distributed Energy Resource Providers and Products" as contemplated in Case 15-M-0180, which will be incorporated herein, as applicable.*

By Seller's and your signature below, and notwithstanding the foregoing overview, you and Seller hereby agree to the following:

1. *Definitions:*
   a. *A "**Credit**" is the dollar value of your share of solar energy produced by the Community Solar Array during the last monthly billing period that will be applied to reduce your Con Edison bill by such dollar value.*
   b. *Your "**Discount**" is xx% off the value of the Credits applied to your electric bill, or any larger percentage which Seller may apply to your Credits from time to time.*
   c. *Your "**Payment**" to Seller for the Credits is the dollar value of the Credits applied to your Con Edison bill, up to the total amount of your bill, minus your Discount.*
   d. ***"Subscriber"** refers to a participating utility customer agreeing to buy solar electricity from FAC.*
   e. *The "**Term**" of Agreement begins on the date you and sign this Agreement and continues until September 1, 20xx [NOTE; THE RESPECTIVE PPA TERM FOR THE UNDERLYING PV PROJECT], unless cancelled by either Seller or Buyer with 30 days' notice. The "**Parties**" to this Agreement are you (the "Buyer") and FAC Solar, LLC (the "Seller"), together with its successors and assigns.*
2. *Account Credits:*
   a. *Seller, in its reasonable discretion, will estimate the Credits that you will receive in each month based on your energy use during the previous year, and will adjust the Credits that you will receive on a quarterly basis or at the times it deems appropriate so that your electricity bill each month is mostly covered by Credits.*
   b. *Credits will be applied to each electricity bill in proportion to your share of the electricity produced by the Community Solar Array (as determined by according to Section 3.a. above), and your electricity bill will be reduced by the value of the Credits applied to your account. You acknowledge that Con Edison is solely responsible for calculating the value of the Credits to apply to your account in accordance with the rate structures established by the State of New York and the value of such Credits applied to your account, as evidenced on your electric bill, shall be conclusive, subject to any adjustments by Con Edison or by Seller. You agree to execute any documentation reasonably required in order to establish your Credits on your account, as requested by Seller.*
   c. *You will remain a Con Edison electricity service customer and your account will not change. You agree and consent to the disclosure of your Utility Customer Data and account information authorizing Con Edison to share account information with Seller (as determined by and according to Section xxx Consent to Disclose utility Customer Information). You also agree to receive your monthly electricity bill from Seller and to pay Seller directly all monthly charges due to Con Edison, and understand that Seller will remit your full payment to Con Edison on your behalf.*
   d. *You agree that you will pay FAC Solar for the dollar value of the Credits that you received in a given billing period, <u>minus</u> the Discount, and that such payments will be made according to the terms of Section 4 below. You acknowledge and agree that Seller may change the Discount in its sole discretion.*
   e. *If your Credits exceed your electricity costs in any month, any excess Credits will be applied to the next month's bill. Excess Credits not used in any month will roll over to the next month until such Credits are applied to your electricity bill.*
   f. *The title to and risk of loss of the Credits will pass from Seller to you when the Credits are applied to your account by Con Edison.*
   g. *Seller may suspend the application of Credits to your electric bill (in coordination with Con Edison) and may apply Credits to your future bills (or coordinate with Con Edison to apply Credits), each at Seller's sole discretion, once you have made all required Payments.*
3. *Payment Details:*
   a. *You acknowledge that Seller may hire a third party service provider to provide services related to management of Subscribers' accounts, and you agree that you will open an account with the third party service provider as directed by , and that you will enter agreements and do any other things required by or the third party service provider to open and maintain an account.*
   b. *will send you a bill for your payment that is separate from your monthly electricity bill. You will make payments to in the amount and in the manner specified in the bill, or as otherwise specified by in writing.*
   c. *You will be responsible for paying the balance of your monthly Con Edison bill after Credits are applied.*
   d. *You agree that you will sign any required forms in order to authorize such electronic withdrawal or recurring credit card charge within 30 days after entering into this Agreement or within 30 days after receiving notice that your current payment arrangements will be discontinued.*
   e. *You agree to pay any taxes associated with this Agreement or your Subscribership and any taxes associated with any payments made according to this Agreement that are invoiced to you by within 30 days, and you agree to*

timely pay any taxes that your local jurisdiction or any other taxing authority require you to pay in connection with this Agreement and your Subscribership.

f. *If does not receive your Payment within 15 days of the due date on the invoice, may charge an administrative late fee of (i) 2% per month on the portion of your balance that is more than 15 days past due or (ii) the maximum amount permitted under and subject to applicable law, whichever is less. If a payment is not received within 30 days following the due date for such payment set forth in the applicable invoice, your next Payment will also include any unpaid balance from previous invoices, together with all fees and interest.*

4. *Disclosure of information:*
   a. *You agree to allow and its contractors to share information that you give us as required to provide this service to you. and its contractors will only share information necessary for carrying out this service. and its contractors and assigns may share data not containing any of your personal or identifying information.*
5. *Agreement Termination:*
   a. ***Under New York State law, if you are a residential customer, you have the right to terminate this Agreement without any penalty or obligation within three (3) business days of signing your sales contract by notifying FAC Solar, LLC.*** *To cancel this contract, please contact FAC Solar at the contact details in the Disclosure Form cover page. There is* ***NO PENALTY*** *for cancelling the contract early.*
   b. *You can terminate this Agreement with no cancellation fee before the end of the Term if you give 30 days' prior notice in an email or letter to (see Section 12 and page 1 of this Agreement for contact details and further information) specifying the date on which you elect to terminate this Agreement.*
   c. *You agree to pay Seller for all Credits applied to your account prior to the date on which this Agreement is terminated. If Seller does not receive your payment in full prior to the date on which this Agreement is terminated, Seller may charge an administrative late fee of [**NOTE: insert dollar amount or % fee**].*
   d. *Seller can terminate this Agreement at any time before the end of the Term by notifying you in an email or a letter that the Community Solar Array will not deliver Credits to you in the future.*
   e. *If you or Seller terminate this Agreement early in accordance with the above sections 6.a. or 6.c., as applicable, both you and Seller shall continue to perform your or its respective obligations under this Agreement through the date on which this Agreement is terminated. After the Agreement is terminated, Seller and you will have no further obligations under this Agreement, except any that specifically survive the termination of this Agreement.*
6. *Agreement Assignment:*
   a. *You can change the Con Edison account that your Credits are applied to by providing written notice to Seller identifying the new account information as long as the account is with Con Edison in New York City. The change will take place as soon as Con Edison allows Seller to make such change (generally within 30 days). Seller will use reasonable efforts to apply Credits to your new Con Edison account in a reasonable amount of time, but Seller will have no obligation to pay for any costs that result from a delay in application of Credits to your new account, or for Credits that are not applied to your account during any such transition.*
   b. *You may not give, sell, transfer or assign this Agreement, either in whole or in part, without 's express written consent.*
   c. *If your Con Edison account is going to be terminated or transferred to a new address, you must notify Seller by the contact information contained on the first page of this Agreement at least 30 days in advance. If you terminate your account with Con Edison without assigning this Agreement pursuant to clause 7(b) above, you will be deemed to have terminated this Agreement.*
7. *Termination for Default:*
   a. *You will be in default if you fail to make a payment for a billing period within 30 days after the date specified for such payment in any invoice received from Seller. If you are in default, Seller may terminate this Agreement immediately without your consent. If Seller terminates this Agreement due to your default, your Con Edison Account will not change, and you will be responsible for paying Con Edison Directly. You, the Buyer, shall continue to pay to the payments owed in respect of any Credits that are applied to your account by Con Edison until you have paid for the Credits that have been allocated to your bill. In addition, you shall pay all costs incurred by Seller to collect overdue amounts owed by you (including, without limitation, any costs associated with a third-party collection agency).*
8. *Entire Agreement:*
   a. *This Agreement contains the Parties' entire agreement, and there are no other agreements between the Parties regarding the Community Solar Array or the Credits, either written or oral.*

9. *Modifications in Writing; Enforcement, Survival:*
   a. *Any amendment or other change to this Agreement must be in writing and signed by you and .*

b. *Any delay or failure to enforce 's rights under this Agreement will not constitute a waiver of 's rights under this Agreement, and will not affect 's ability to enforce its rights under this Agreement.*
c. *If any part of this Agreement is found to be or is otherwise invalid or unenforceable, the remainder of this Agreement will persist as a valid and enforceable agreement.*
d. *Sections 3.c., 3.e., 3.f., 4.e., 6.b., 6.d., 9.d., 14 and 15 will survive the Termination of this Agreement.*
e. *If this Agreement is translated to a language other than English, the English version of this Agreement will control.*

10. *Governing Law:*
    a. *This Agreement is governed by the laws of the State of New York.*
11. *Notices:*
    a. *All notices and other formal communications will be in writing, shall be deemed delivered upon receipt (except notice provided by email shall be deemed delivered upon confirmation of receipt, of which auto-reply is insufficient), and shall be sent by any of the following methods: first class mail, return receipt requested; reputable overnight courier; certified mail, return receipt requested; or email transmission. The communications shall be sent to the Parties' addresses stated on page 1.*
12. *Limitation of Liability and Warranty Disclaimer:*
    a. *To the maximum extent permitted by law (1) 's liability to you under this Agreement shall be limited to direct, actual damages only and shall in no event exceed the amount paid by you to under this Agreement, and (2) in no event shall either Party be liable to the other for consequential, punitive, exemplary, or indirect damages. This amount of liability is your sole and exclusive remedy, and you hereby waive all other remedies or damages at law or equity; and*

    b. *Except as expressly provided herein, makes no warranty or representation, either express or implied, regarding its obligations under this Agreement or the Community Solar Array. disclaims all warranties of merchantability or fitness for a particular use or purpose.*

13. *Indemnification: To the maximum extent permitted by law, you agree to indemnify, defend, and hold harmless and its successors and assigns, and its and their employees, officers, directors, and agents, from any and all losses, liabilities, damages, claims, actions, costs, judgments, expenses (including reasonable attorneys' fees and expenses), penalties, demands, and liens asserted by or resulting from claims, actions, suits, or demands by any third party, of any kind or nature arising out of, connected with, relating to or resulting from your failure to comply with any of the terms or conditions of this Agreement. This section shall survive the termination of this Agreement.*
14. *You shall cooperate with and Con Edison to make any amendments reasonably necessary to ensure this Agreement and the transactions contemplated hereby comply with State of New York and New York City community solar laws and regulations, as determined necessary by in its sole discretion.*

Buyer:

By:

Name:

Date:

Seller: *FAC Solar*

By:

Name:

Date:

Signature of Authorized Company Official or Representative: *Date:*

Signature of Customer: *Date:*