

REDEVELOPMENT AGREEMENT

BY AND BETWEEN

WOODBIDGE REDEVELOPMENT AGENCY

AND

CPV SHORE, LLC

Dated: February ____, 2013

TABLE OF CONTENTS

	Page
ARTICLE 1	DEFINITIONS..... 2
SECTION 1.01	Governing Law 2
SECTION 1.02	Definitions..... 2
ARTICLE 2	REPRESENTATIONS AND WARRANTIES..... 9
SECTION 2.01	Representations and Warranties by the Redeveloper..... 9
SECTION 2.02	Representations and Warranties by the Agency 10
SECTION 2.03	Mutual Representations 10
SECTION 2.04	No Reliance..... 11
ARTICLE 3	COVENANTS AND RESTRICTIONS 11
SECTION 3.01	Redeveloper Covenants and Restrictions..... 11
SECTION 3.02	Agency Covenants 12
SECTION 3.03	Declaration of Covenants and Restrictions..... 13
SECTION 3.04	Effect and Duration of Covenants..... 13
SECTION 3.05	Enforcement by the Agency..... 14
ARTICLE 4	THE PROJECT 14
SECTION 4.01	Description of the Project 14
SECTION 4.02	Term 15
SECTION 4.03	Submission of Plans..... 15
SECTION 4.04	Project Schedule..... 15
SECTION 4.05	Governmental Approvals 16
SECTION 4.06	Project Oversight 17
SECTION 4.07	Tolling..... 18
SECTION 4.08	Prohibition Against Suspension, Discontinuance or Termination..... 18
SECTION 4.09	Cooperation..... 18
SECTION 4.10	Construction Covenants 18
ARTICLE 5	ACQUISITION OF EASEMENTS 18
SECTION 5.01	Redeveloper's Acquisition Responsibilities 18
SECTION 5.02	Condemnation of Easements..... 19
SECTION 5.03	Security for Good Faith Offers and Insurance..... 20
ARTICLE 6	ENVIRONMENTAL PROVISIONS 21
SECTION 6.01	Brownfield Development Area 21

TABLE OF CONTENTS
(continued)

	Page
SECTION 6.02 Environmental Testing.....	21
SECTION 6.03 Environmental Covenants.....	22
ARTICLE 7 INDEMNIFICATION	23
SECTION 7.01 Indemnity	23
ARTICLE 8 COSTS ASSOCIATED WITH THE PROJECT	23
SECTION 8.01 Project Costs	23
SECTION 8.02 Agency Costs	24
SECTION 8.03 Affordable Housing Requirement.....	24
ARTICLE 9 PROHIBITION AGAINST ASSIGNMENT AND TRANSFER.....	24
SECTION 9.01 Prohibition Against Transfers	24
SECTION 9.02 Permitted Transfers	25
SECTION 9.03 Transfers Void	25
SECTION 9.04 Consent to Transfer.....	25
ARTICLE 10 MORTGAGE FINANCING	26
SECTION 10.01 Financing/PILOT	26
SECTION 10.02 Mortgagee Not Bound.....	26
SECTION 10.03 Completion of Project	26
SECTION 10.04 Notice of Default to Mortgagee and Right to Cure.....	27
SECTION 10.05 Lender Requirements	27
SECTION 10.06 Estoppel Certificate.....	27
ARTICLE 11 EVENTS OF DEFAULT	27
SECTION 11.01 Events of Default	27
SECTION 11.02 Remedies Upon Default; Termination	28
SECTION 11.03 Remedies Cumulative	29
SECTION 11.04 Mitigation.....	29
ARTICLE 12 DELAYS.....	29
SECTION 12.01 Force Majeure	29
ARTICLE 13 INSURANCE.....	30
SECTION 13.01 General Requirements.....	30

TABLE OF CONTENTS
(continued)

	Page
SECTION 13.02 Insurance Required	30
ARTICLE 14 MISCELLANEOUS	31
SECTION 14.01 Conflict of Interest	31
SECTION 14.02 No Consideration For Agreement	32
SECTION 14.03 Non-Liability of Officials and Employees of the Agency	32
SECTION 14.04 Non-Liability of Officials and Employees of the Redeveloper	32
SECTION 14.05 Inspection of Records	32
SECTION 14.06 Modification of Agreement.....	33
SECTION 14.07 Notices and Demands	33
SECTION 14.08 Severability	34
SECTION 14.09 Successors Bound	34
SECTION 14.10 Governing Law; Dispute Resolution	34
SECTION 14.11 Counterparts.....	34
SECTION 14.12 Entire Agreement	34
SECTION 14.13 Review by Counsel	34

THIS REDEVELOPMENT AGREEMENT (this "Agreement") dated as of the _____ day of February, 2013 by and between

WOODBIDGE REDEVELOPMENT AGENCY, an agency created pursuant to *N.J.S.A. 40A:12A-1, et seq.* by the Township of Woodbridge, New Jersey, a municipal corporation (the "Township") with offices located at 1 Main Street, Woodbridge, New Jersey 07095, and its successors and assigns (the "Agency");

AND

CPV SHORE LLC, a Delaware limited liability company, having an address c/o Competitive Power Ventures, Inc., 8403 Colesville Road, Suite 915, Silver Spring, Maryland 20910, and its successors and assigns (the "Redeveloper"; and together with the Agency, the "Parties").

WITNESSETH

WHEREAS, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, as amended from time to time (the "Act"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-4(c)*, the municipal council of the Township (the "Council") passed an ordinance on September 3, 1996 designating the Agency as the "Redevelopment Entity", as such term is defined at *N.J.S.A. 40A:12A-3*, with full authority to exercise the powers contained in the Act to facilitate and implement the development of the redevelopment areas within the Township; and

WHEREAS, the Council adopted a resolution designating the property commonly known as Block 62, Lots 2 and 3; Block 83, Lot 1; Block 93, Lot 100; Block 95, Lot 10.02; and Block 99, Lot 10 on the Tax Map of the Township of Woodbridge as an area in need of redevelopment (the "Redevelopment Area") in accordance with the requirements of the Act; and

WHEREAS, the Council adopted an ordinance adopting a redevelopment plan entitled the EPEC Redevelopment Plan in accordance with the Act (the "Redevelopment Plan") for the Redevelopment Area; and

WHEREAS, Redeveloper holds an option to purchase a portion of the Redevelopment Area more commonly known as a portion of Lot 100 in Block 93, and a portion of Lots 2 and 3 in Block 62 on the tax map of the Township of Woodbridge, and more particularly shown on **Exhibit A** annexed hereto (the "Property"); and

WHEREAS, the Redeveloper seeks to be designated by the Agency as the redeveloper of the Property to design, develop, finance and construct a power generation facility and associated office, support, and accessory facilities on the Property (the "Facility"), as more fully described on **Exhibit B** attached hereto and made a part hereof (the design, development, financing and construction of the Facility being hereafter referred to as the "Project"); and

WHEREAS, the Redeveloper desires to construct, or cause to be constructed, certain improvements that are normally associated with the operation of the Facility (the "Improvements"); and

WHEREAS, the Agency has determined that the Redeveloper's qualifications meet all necessary criteria and has determined to engage in negotiations with the Redeveloper for the purpose of entering into this Agreement to designate the Redeveloper as the exclusive redeveloper of the Property; and

WHEREAS, subject to the terms of this Agreement, the Redeveloper has agreed to implement the Redevelopment Plan and construct the Facility on the Property; and

WHEREAS, in order to implement the Project, the Agency has determined to enter into this Agreement with the Redeveloper, which specifies the rights and responsibilities of the Agency, designates the Redeveloper as redeveloper of the Property and specifies the rights and responsibilities of the Redeveloper with respect to the Project; and

WHEREAS, the Agency believes that the redevelopment of the Property pursuant to this Agreement and the Act, and the fulfillment of this Agreement, are in the vital and best interest of the residents of the Township and the health, safety and welfare of the Township, and in accordance with the public purposes and provisions of all applicable federal, State and local laws, ordinances and regulations under which the redevelopment of the Property is being undertaken.

NOW, THEREFORE, in consideration of the mutual promises, representations, covenants and agreements contained herein and the undertakings of each Party to the other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby and to bind its successors and assigns, do mutually promise, covenant and agree as follows:

ARTICLE 1 DEFINITIONS

SECTION 1.01 Governing Law. This Agreement shall be governed by the provisions of (a) the Act and such other statutes as may be the sources of relevant authority and (b) all other Applicable Laws (as defined herein).

SECTION 1.02 Definitions. Words that are capitalized, and which are not the first word of a sentence, are defined terms. The following terms shall have the meanings assigned to such term in the preambles hereof:

**Act
Agency
Agreement
Council
Facility
Improvements
Parties**

**Project
Property
Redeveloper
Redevelopment Area
Redevelopment Plan
Township**

Unless specifically provided otherwise, the following terms when used in this Agreement shall mean:

“Acquisition Costs” shall mean all costs and expenses (in accordance with Section 1.03(j) hereof) incurred by the Agency in connection with obtaining the Easements, including, without limitation, the following costs and expenses: (i) the price paid to the owners of the Easement Parcels for the Easements for which the Redeveloper has issued an Acquisition Notification pursuant to Section 5.02(a) of this Agreement, which price shall be the just compensation value determined by the condemnation process either in bona fide negotiations with the property owner or as a result of the proceedings before the condemnation commissioners or the court; and (ii) legal fees, costs of surveys, engineering costs, title search and premium fees, appraisal fees (including fees of real property appraisers arising from their participation in pre-condemnation or pre-trial consultations with the Agency’s condemnation attorney or in the provision of expert testimony should that be necessary during any condemnation proceedings), other professional fees, witness fees, court costs and other expenses directly related to the acquisition of any Easement.

“Acquisition Notification” shall mean written notification from the Redeveloper to the Agency requesting that the Agency obtain an Easement through negotiation and contract or through the exercise of the Agency’s power of eminent domain including such documentation described in Section 5.02(a).

“Affiliate” means with respect to any Person, any other Person directly or indirectly controlling or controlled by, or under direct or indirect common control with, such Person. For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, or by contract or otherwise.

“Affordable Housing Fees” means any fees imposed on non-residential development for the creation of low and moderate income housing, which are required by the Mt. Laurel doctrine and Applicable Laws.

“Agency Costs” shall be as defined in Section 8.02 and shall specifically include Acquisition Costs.

“Appeal Period” shall mean the period of time specified by statute or court rule within which an appeal may be taken by any party from the grant of any Governmental Approval, and includes the period for filing an appeal to an appellate court after entry of a judgment or decision by a lower court or administrative agency.

“Applicable Laws” shall mean all federal, State and local laws, ordinances, approvals, rules, regulations and requirements applicable to the Project including, but not limited to, the Act, the Land Use Law, the Uniform Construction Code and any other applicable construction

codes including construction codes governing access for people with disabilities, and such zoning, sanitary, pollution and other environmental safety ordinances, laws and such rules and regulations thereunder, including all applicable Environmental Laws.

“Approvals Start Date” shall mean the fourth (4th) anniversary of the Effective Date.

“Certificate of Completion” shall mean a certificate, in the form attached hereto as Exhibit C, issued by the Agency upon Completion of the Project in accordance with this Agreement.

“Certificate of Occupancy” shall mean a temporary or permanent certificate of occupancy as defined in the applicable provisions of the Uniform Construction Code.

“Commencement of Construction” “Commence Construction” or “Commencement Date” shall mean the date on which the Redeveloper commences any actual physical construction of the Improvements and excluding any activities related to the preparation of the site for such construction, or any activities related to the environmental remediation, mitigation or clean up of same.

“Complete” or “Completion” shall mean with respect to the Project, the date that the Facility may, in all respects, be used and operated for its intended purpose; provided that all of the applicable provisions of this Agreement have been met and the Agency has received a written certificate from the Redeveloper (in the form of Exhibit 1 to the form of Certificate of Completion attached hereto as Exhibit C) affirming that the Facility may, in all respects, be used and operated for its intended purpose.

“Completion Date” shall mean the date that the Project is Complete.

“Declaration” shall be a recordable document in the form annexed hereto as Exhibit D, which includes (a) the provisions of Article 3, (b) the environmental covenants set forth in Section 6.03, (c) the prohibition against transfers as set forth in Article 9 and (d) the Agency’s remedies as set forth in Article 11.

“Development Fee Act” shall mean the Statewide Non-Residential Development Fee Act, *N.J.S.A. 40:55D-8.1, et. seq.*, as may be amended.

“Easement” shall mean the right to use the Easement Parcels as Redeveloper determines is necessary solely for purposes of constructing and operating the Facility.

“Easement Parcels” shall mean those properties within the Township through which Redeveloper deems it necessary to obtain easement rights in order to construct and operate the Facility.

“Effective Date” shall mean the date set forth above, such date being the date on which this Agreement is executed and delivered by the Agency and Redeveloper.

“Eminent Domain Law” shall mean the Eminent Domain Act of 1971, *N.J.S.A. 20:3-1, et seq.*, as same may be amended from time to time.

“Eminent Domain Deposit” shall be as defined in Section 5.03(b).

“Environmental Default” shall mean a violation at the Property of any Environmental Laws by the Redeveloper, its agents, contractors, subcontractors, employees or invitees.

“Environmental Laws” means each and every federal, State, county or local statute, ordinance, rule and regulation concerning the protection of the environment, human health or safety, presently in effect, including, without limitation, the New Jersey Spill Compensation and Control Act, *N.J.S.A. 58:10-23.11 et seq.* (the “Spill Act”); Industrial Site Recovery Act, *N.J.S.A. 13:1K-6 et seq.* (“ISRA”); New Jersey Underground Storage of Hazardous Substances Act, *N.J.S.A. 58:10A-21 et seq.*; New Jersey Water Pollution Control Act, *N.J.S.A. 58:10A-1 et seq.*; Brownfield and Contaminated Site Remediation Act, *N.J.S.A. 58:10B-1 et seq.*; Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §9601 *et seq.* (“CERCLA”); Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*; Solid Waste Disposal Act, 42 U.S.C. §6901 *et seq.*; Clean Air Act, 42 U.S.C. §7401 *et seq.*; Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §1100 *et seq.*; Safe Drinking Water Act, 42 U.S.C. §300 *et seq.*; Pollution Prevention Act of 1990, 42 U.S.C. §13101 *et seq.*; Clean Water Act, 33 U.S.C. §1251, *et seq.*; Toxic Substances Control Act, 15 U.S.C. §2601, *et seq.*; and the Hazardous Materials Transportation Uniform Safety Act of 1990 49 U.S.C. §5101.

“EPEC” shall be as defined in Section 6.01.

“Equity Investor” shall mean any Person, other than an Affiliate of Redeveloper, that owns an equity interest in Redeveloper greater than five percent (5%), and less than fifty percent (50%).

“Escrow” shall be as defined in Section 8.02.

“Event of Default” shall be as set forth in Section 11.01.

“Financial Agreement” shall mean an agreement for the payment in lieu of taxes between the Township and the Redeveloper in form and substance acceptable to the Township and Redeveloper in their sole discretion.

“Financial Closing Date” shall mean the date upon which the Financing Documents having been executed and delivered, and funds are first disbursed under the Financing Documents by the Financing Parties.

“Financial Closing Outside Date” shall mean the fifth (5th) anniversary of the Effective Date.

“Financing Documents” shall mean the loan agreements (including agreements for any subordinated debt), notes, bonds, indentures, security agreements, swap agreements and hedging

agreements and any other documents, satisfactory to Redeveloper in its sole discretion, relating to the financing or refinancing of the design, development, construction, testing, ownership, operation and maintenance of the Facility or any guarantee by any Financing Party of the repayment of all or any portion of such financing or refinancing.

“Financing Parties” shall mean such lenders, institutions, noteholders or bondholders, as may provide or guarantee financing or refinancing to Redeveloper for the design, development, construction, test, ownership, operation and maintenance of the Facility, and any agent or trustee therefore.

“Force Majeure” shall be as defined in Section 12.01.

“Good Faith Offer” shall be as defined in Section 5.03.

“Governmental Applications” shall mean the applications including all plans, drawings, documentation and presentations necessary and appropriate for the purpose of obtaining any and all Governmental Approvals required to complete the Project.

“Governmental Approvals” shall mean all approvals by a Governmental Body having jurisdiction over the Project, or any quasi-governmental body or public utility, issued in reliance on the Governmental Applications, including, without limitation: the site plan approval for the Facility; environmental approvals; sewerage capacity approvals and any and all other necessary permits, licenses, easements, consents, agreements and approvals necessary for construction and operation of the Facility and/or required under Applicable Law.

“Governmental Body” means any federal, State, county or local agency, department, commission, authority, court or tribunal and any designee or successor thereto, exercising executive, legislative, judicial or administrative functions of or pertaining to government, including without limitation, the Agency and the State.

“Hazardous Substance” means any element, compound, material, mixture, contaminant, pollutant, waste or substance regulated under any of the Environmental Laws, including, without limitation, petroleum products, flammables, explosives, radioactive materials, asbestos containing materials, and polychlorinated biphenyls.

“Indemnified Parties” means the Agency, its elected officials, officers, agents, servants and employees.

“ISRA Case” shall be as defined in Section 6.01.

“Land Use Law” shall mean the Municipal Land Use Law, *N.J.S.A.40:55D-1, et seq.*

“Mortgage” shall mean any written instrument encumbering the Property, or any portion thereof, that secures the performance of obligations or the payment of debt, including, without limitation any grant of, pledge of, or security interest in, any collateral, or any grant, directly or indirectly, of any deed of trust, mortgage or similar instrument or any other security whatsoever.

“Mortgagee” shall mean a Financing Party that holds a Mortgage.

“NJDEP” shall be as defined in Section 6.01.

“Non-Residential Development Fee” means the fee authorized pursuant to the Development Fee Act.

“Outside Completion Date” shall mean the last day of the fortieth 40th month after the Commencement of Construction.

“Permitted Transfers” shall be as defined in Section 9.02.

“Person” means any individual, sole proprietorship, corporation, partnership, joint venture, limited liability company or partnership, trust, unincorporated association, institution, public or Governmental Body or any other entity.

“Phase Two Facility” shall mean an expansion of the Facility of up to an additional 700 megawatts and all related improvements.

“Plans” shall be as defined in Section 4.03.

“Planning Board” shall mean the Planning Board of the Township.

“Progress Reports” shall be as defined in Section 4.06.

“Project Costs” shall be as defined in Section 8.01.

“Project Schedule” shall mean the schedule attached hereto as **Exhibit E** for the implementation of the Project.

“Revocation Notification” shall be as defined in Section 3.03(d).

“State” shall mean the State of New Jersey.

“Term” shall mean the term of this Agreement, commencing on the Effective Date and ending on the Termination Date.

“Termination Date” shall be as defined in Section 4.02.

“Transfers” shall be as defined in Section 9.01.

“Uniform Construction Code” shall mean the New Jersey Uniform Construction Code, N.J.S.A 52:27D-119 et seq., and the regulations promulgated pursuant thereto.

SECTION 1.03 Interpretation and Construction. In this Agreement, unless the context otherwise requires:

(a) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms, as used in this Agreement, refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before the Effective Date.

(b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice versa.

(c) Unless otherwise noted, the terms “include,” “includes” and “including” when used in this Agreement shall be deemed to be followed by the phrase “without limitation.”

(d) The terms “agree,” “agreements,” “approval” and “consent” when used in this Agreement shall be deemed to be followed by the phrase “which shall not be unreasonably withheld, conditioned or unduly delayed,” except or unless the express terms of this Agreement may otherwise provide, specify or dictate.

(e) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect. Any references to Articles, Sections and Exhibits in this Agreement shall be deemed to be references to the Articles, Sections and Exhibits in this Agreement except or unless the context or express terms of this Agreement may otherwise provide, specify or dictate.

(f) Unless the express terms of this Agreement provide otherwise, all approvals, consents and acceptances required to be given or made by any person or party hereunder shall not be unreasonably withheld, conditioned, or delayed.

(g) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within a reasonable time, which shall not be less than ten (10) days nor more than thirty (30) days.

(h) All Exhibits referred to in this Agreement and attached hereto are incorporated herein and made part hereof.

(i) Each right or obligation of a Party to review or approve any actions, plans, specifications, or other obligations hereunder shall be made by a person with legal authority to conduct such review or grant such approvals. Any review contemplated by this Agreement shall be made in a prompt and timely manner.

(j) Unless the express terms of this Agreement provide otherwise, any costs, fees and/or expenses shall be required to be actual, out of pocket, necessary, customary and reasonable.

(k) Any reference to Applicable Laws or any Applicable Law shall be read to mean as the Applicable Law is amended from time to time.

(l) All Block and Lot references used in this Agreement shall refer to Blocks and Lots appearing on the official tax maps of the Township.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

SECTION 2.01 **Representations and Warranties by the Redeveloper.** The Redeveloper hereby makes the following representations and warranties, understanding that the Agency has relied thereon as a material element in entering into this Agreement:

(a) The Redeveloper has the legal capacity to enter into this Agreement and perform each of the undertakings set forth herein and in the Redevelopment Plan, with respect to the Property, as of the date of this Agreement.

(b) The Redeveloper is duly organized and a validly existing legal entity under the laws of the State of Delaware and all necessary consents have been duly adopted to authorize the execution and delivery of this Agreement and to authorize and direct the persons executing this Agreement to do so for and on the Redeveloper's behalf.

(c) No receiver, liquidator, custodian or trustee of the Redeveloper shall have been appointed as of the Effective Date, and no petition to reorganize the Redeveloper pursuant to the United States Bankruptcy Code or any similar statute that is applicable to the Redeveloper shall have been filed as of the Effective Date.

(d) No adjudication of Bankruptcy of the Redeveloper or a filing for voluntary bankruptcy by the Redeveloper under the provisions of the United States Bankruptcy Code or any other similar statute that is applicable to the Redeveloper shall have been filed as of the Effective Date.

(e) No indictment has been returned against the Redeveloper or any official, principal or member of the Redeveloper as of the Effective Date.

(f) To the Redeveloper's knowledge, there is no action, proceeding or investigation now pending, nor is there any basis therefor, which questions the authority of the Redeveloper to enter into this Agreement or any action or act taken or to be taken by the Redeveloper pursuant to this Agreement.

(g) The Redeveloper's execution and delivery of this Agreement and its performance hereunder will not constitute a violation of any operating, partnership and/or stockholder agreement of the Redeveloper or of any agreement, mortgage, indenture, instrument or judgment, to which the Redeveloper is a party.

(h) The Redeveloper agrees that the cost and financing of the Project is the responsibility of the Redeveloper pursuant to the Redevelopment Plan, the Financial Agreement and this Agreement. The Agency shall not be responsible for any cost whatsoever in respect to same.

(i) Subject to obtaining financing, the Redeveloper is financially and technically capable of implementing the Project.

SECTION 2.02 Representations and Warranties by the Agency. The Agency hereby makes the following representations and warranties, understanding that the Redeveloper has relied thereon as a material element in entering into this Agreement:

(a) The Agency has the legal power, right and authority to enter into this Agreement and the instruments and documents referenced herein to which the Agency is a party, to consummate the transactions contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder.

(b) Upon the execution and approval by the Agency of this Agreement, all requisite action will have been taken by the Agency and all requisite consents have been obtained in connection with the entering into this Agreement and the instruments and documents referenced herein to which the Agency is party, and the consummation of the transaction contemplated hereby, and to the best of the Agency's knowledge and belief are authorized by all Applicable Laws. To the best knowledge of the Agency there are no writs, injunctions, orders or decrees of any court or governmental body that would be violated by the Agency entering into or performing its obligations under this Agreement.

(c) This Agreement is duly executed by the Agency, and is valid and legally binding upon the Agency and enforceable in accordance with its terms on the basis of laws presently in effect and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which the Agency is a party.

(d) There is no action, proceeding or investigation now pending, nor any basis therefor, known or believed to exist which questions the validity of this Agreement or the authority of the Agency to enter into the Agreement or any action or act taken or to be taken by the Agency pursuant to this Agreement.

SECTION 2.03 Mutual Representations.

(a) The Agency and Redeveloper agree that the Project as defined herein does not constitute a "Public Works Contract" as defined in *N.J.S.A. 10:5-31* and the completion of the Project does not constitute a "Public Work" as defined in *N.J.S.A. 34:11-56.26*.

(b) In the event that any contractual provisions that are required by Applicable Laws have been omitted, then the Agency and Redeveloper agree that this Agreement shall be deemed

to incorporate all such clauses by reference, and such requirements shall become a part of this Agreement. If such incorporation occurs and results in a change in the obligations or benefits of one of the Parties, the Agency and Redeveloper agree to act in good faith to mitigate such changes in position.

SECTION 2.04 **No Reliance.** The Redeveloper had been given the opportunity to make its own determination of the suitability of the Property, including without limitation, the subsurface conditions of the Property, the conditions of title, zoning, subdivision, land use and other aspects of the Property, the compliance of the Property with the Applicable Laws, the environmental condition of the Property, the inter-relationship between the Property and the remainder of the Redevelopment Area, and the likelihood of the Redeveloper's receipt of the Governmental Approvals. The Redeveloper acknowledges, in connection with the above, that the Agency has not made any representations with respect to the above or with respect to any other aspect of the Property generally, except as set forth in this Agreement, and the Agency has given the Redeveloper full and free access and opportunity to perform its own investigations.

ARTICLE 3

COVENANTS AND RESTRICTIONS

SECTION 3.01 **Redeveloper Covenants and Restrictions.** The Redeveloper covenants and agrees that, except as explicitly provided herein:

(a) The Redeveloper shall implement the Project in compliance with the Redevelopment Plan, Governmental Approvals, Applicable Laws, the Financial Agreement and this Agreement.

(b) The Redeveloper shall diligently, and in good faith, use commercially reasonable efforts to (i) obtain financing for the Facility, (ii) construct and develop the Facility, and (iii) subject to the terms of this Agreement, including, without limitation, Sections 4.04 and 4.07, commence and complete construction of the Facility on or prior to the dates set forth in the Project Schedule. All activities performed under this Agreement shall be performed in accordance with the level of skill and care ordinarily exercised by developers of first class developments of the same type and nature as the Project.

(c) Subject to the terms of Section 4.03 hereof, the Redeveloper shall not seek a material change to the Project, without the Agency's written approval.

(d) Commencing not later than the Approvals Start Date, the Redeveloper shall diligently, and in good faith, use commercially reasonable efforts to (i) obtain all Governmental Approvals requisite to the construction, development use and occupancy of the Facility, subject to EPEC's obligation to remediate the Property pursuant to Article 6 hereof; and (ii) provide evidence reasonably satisfactory to the Agency that the Project is in compliance with all Applicable Laws.

(e) The Redeveloper shall not suspend or discontinue the performance of its obligations under this Agreement other than in the manner provided for herein, including Section 4.07.

(f) The Redeveloper shall not use or permit a use of the Property, or any part thereof, in a manner that is inconsistent with the Redevelopment Plan, Governmental Approvals, Applicable Laws and this Agreement.

(g) Until a Certificate of Completion has been issued for the Project, the Redeveloper shall not Transfer the Project without consent from the Agency, except as otherwise permitted by this Agreement.

(h) The Redeveloper shall not discriminate against any Person, or group of Persons, on the basis of age, race, color, religion, creed, national origin, ancestry, physical handicap, familial status, sex, or sexual orientation in the sale, lease, sublease, rental, transfer, use, or occupancy of the Property, or any part thereof.

(i) The Redeveloper shall promptly notify the Agency of any material adverse change in its financial condition from the information provided to the Agency by Redeveloper indicating Redeveloper's financial capability to develop, finance and construct the Project in furtherance of the Agency's consideration in designating CPV Shore, LLC, as the Redeveloper.

(j) The Redeveloper will pay, in a timely manner, any and all taxes and utility charges incident to the conduct and operation of its business upon the Property, including all charges for heat, light, power, telephone, and other utilities, as well as all water, sewer and other charges.

(k) Redeveloper will not cause or permit the use of the Property for the storage, treatment, disposal or release of any Hazardous Substance except in compliance with Applicable Laws.

(l) The Redeveloper's undertakings pursuant to this Agreement are for the purpose of redevelopment of the Property and not for speculation in land holding. The Redeveloper shall not use the Property, or any part thereof, as collateral for an unrelated transaction.

SECTION 3.02 Agency Covenants. The Agency hereby covenants and agrees that:

(a) The Agency shall fully cooperate with the Redeveloper to ensure that all Governmental Approvals are obtained for the Project. Furthermore, the Agency agrees to support any applications for Governmental Approvals that are consistent with the terms of the Redevelopment Plan and this Agreement, and to execute and deliver any documents required to obtain such approvals and otherwise to cooperate with the Redeveloper with respect to the Governmental Approvals; provided that nothing contained in this Section 3.02(a) shall be deemed: (i) to constitute an approval of all or any portion of the Project for which Governmental Applications have been submitted or are required or (ii) a waiver of the ability of the Planning

Board, or any other Governmental Body, to exercise its statutorily authorized responsibilities with respect to the Governmental Applications or Governmental Approvals. Without limiting the generality of the foregoing, the Agency shall (A) request that the Planning Board and all other agencies of the Township having jurisdiction over any of the Governmental Approvals expedite the processing of all Governmental applications for Governmental Approvals, (B) schedule, convene and conclude all required public hearings of the Agency in an expeditious manner consistent with Applicable Laws, and (C) cause all of the planners, engineers and other consultants engaged by the Agency to review and comment on all submittals by Redeveloper in an expeditious manner and request that all planners, engineers and other consultants engaged by the Township or any of its agencies review and comment on all submittals by Redeveloper in an expeditious manner.

(b) The Agency shall undertake and complete, with due diligence, all of its obligations under this Agreement.

(c) The Agency shall not amend or cause the amendment of the Redevelopment Plan, with respect to the Property, without the prior written consent of the Redeveloper; provided, however that, upon not less than sixty days prior notice to the Redeveloper, the Agency may amend, or cause the amendment of the Redevelopment Plan, in a manner that has no adverse impact on the Project.

(d) The Agency shall not exercise its power of eminent domain to condemn the Property during the Term.

SECTION 3.03 **Declaration of Covenants and Restrictions.** The Redeveloper shall execute and record the Declaration promptly upon Redeveloper's acquisition of the Property from EPEC, which is anticipated to occur on the Financial Closing Date, and will in no event occur later than the Financial Closing Date. The Declaration shall impose the Redeveloper's covenants on the Property, together with such other matters indicated in this Agreement as to be included in the Declaration, and the provisions hereof relating to Transfers, all as may be limited by the rights of a Mortgagee granted hereunder.

SECTION 3.04 **Effect and Duration of Covenants.** It is intended and agreed, and the Declaration shall expressly provide, that the covenants and restrictions contained in this Agreement, including this Article 3 and in Article 6, shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Agency, its successors and assigns, against the Redeveloper, its successors and assigns and every successor in interest therein, and any party in possession or occupancy of the Property and the Improvements or any part thereof, provided, however, that this Agreement shall not be binding on any Mortgagee except in accordance with the terms of Article 10 hereof. Furthermore, such agreements and covenants shall be binding on the Redeveloper itself, each successor in interest to the Redeveloper and each party in possession or occupancy, respectively (except for any Mortgagee as provided in the previous sentence), only for such period as the Redeveloper or such successor or party shall be in possession or occupancy of the Property and the Improvements thereon, or any part thereof.

SECTION 3.05 Enforcement by the Agency. (a) In amplification, and not in restriction, of the provisions of this Article 3, it is intended and agreed that the Agency and its successors and assigns shall be deemed beneficiaries of the terms and covenants set forth in this Agreement, both for and in its own right but also for the purposes of protecting the interests of the community and other public parties in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall (and the Declaration shall so state) run in favor of the Agency for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Agency has at any time been, remains, or is an owner of any land or interest therein. The Agency shall have the right, in the event of any material breach of any such agreement or covenant beyond any applicable notice and cure period, to exercise all the rights and remedies and to maintain any actions or suits at law or in equity or other lawful proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

(b) The covenants and restrictions contained in this Article 3 and in Section 6.03 and Article 9 shall run with the land and be referenced in any deeds, leases, or other documents of conveyance for the Property, but shall cease and terminate upon issuance of a Certificate of Completion for the Project.

(c) Upon redevelopment of the Property and Completion of the Project, the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall be deemed to no longer exist with respect to the Property and the conditions and requirements of *N.J.S.A. 40A:12A-9* shall be deemed to have been satisfied with respect to the Property. Notwithstanding the foregoing, or any other terms of this Agreement (including, without limitation, the terms of Section 4.04(f) hereof), the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall remain in effect with respect to any portion of the Property that may be utilized for development of the Phase Two Facility, provided, however, that the Agency shall not exercise its power of eminent domain to condemn any such portion of the Property. The preceding sentence shall survive the Term of this Agreement.

ARTICLE 4 THE PROJECT

SECTION 4.01 Description of the Project. (a) Subject to the terms of this Agreement, the Redeveloper agrees, at its sole cost and expense, to implement and complete the Project, which shall consist of the following: (i) Subject to EPEC's obligation to remediate the Property pursuant to Article 6 hereof, procurement of all applicable Governmental Approvals; (ii) financing, design, construction and completion of the Facility; and (iii) payment of the Agency Costs in accordance with the terms of this Agreement.

(b) The Project shall be implemented consistent with this Agreement, the Redevelopment Plan, Governmental Approvals and Applicable Laws.

(c) The Redeveloper has been designated as the exclusive redeveloper of the Property and shall have the exclusive right and obligation to redevelop the Property and implement the Project in accordance with the terms and conditions of this Agreement.

SECTION 4.02 **Term.** This Agreement shall terminate on the earlier to occur of the following: (a) the tenth (10th) anniversary of the Effective Date subject to (i) any extension by reason of a Force Majeure event in accordance with Section 4.07 or (ii) any extension granted by the Agency in its reasonable discretion pursuant the terms of this Agreement upon a request of the Redeveloper; (b) issuance of a Certificate of Completion for the Project, or (c) upon such earlier date that this Agreement may be terminated as provided herein, including, without limitation any termination by the Redeveloper pursuant to Section 4.05(b), Section 10.01(a), Section 10.01(b), or pursuant to Applicable Law (the "Termination Date"). Upon termination of this Agreement, except as expressly set forth herein to the contrary, this Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder, provided, however, that the Redeveloper shall pay to the Agency any Agency Costs that have accrued up to the Termination Date regardless of whether there are sufficient funds in the Escrow. This obligation to pay for Agency Costs shall survive termination of this Agreement.

SECTION 4.03 **Submission of Plans.** (a) Prior to the submission of an application for preliminary site plan approval to the Planning Board, the Redeveloper shall submit to the Agency, for its review and written approval, a preliminary site plan, and, if necessary, a preliminary subdivision plan, for the Project, which shall be prepared by a licensed architect, surveyor and/or engineer of the State of New Jersey (collectively, the "Plans"). The Agency shall review the Plans solely to determine whether the Plans conform with the Redevelopment Plan, the Act and this Agreement. Within thirty (30) days after receiving the Plans, the Agency shall either (i) approve the Plans (i.e., confirm that the Plans are in conformance with the Redevelopment Plan, the Act and this Agreement), or (ii) issue a written notice to the Redeveloper detailing any changes or modifications to the Plans that are required to render the Plans in conformity with the Redevelopment Plan and this Agreement. Notwithstanding anything to the contrary above, in the event that the Agency shall fail to notify the Redeveloper of any required changes within thirty (30) days after receiving the Plans, or revised Plans, then the Plans, or revised Plans, as the case may be, shall be deemed approved.

(b) The Redeveloper hereby acknowledges and agrees that if Redeveloper makes any material changes to the Plans after Agency approval of the Plans pursuant to Section 4.03(a) above, such modified Plans must be resubmitted to the Agency for review and approval in accordance with the same procedures set forth in Section 4.03(a) above.

(c) Notwithstanding anything to the contrary contained herein, at Redeveloper's election, Redeveloper may submit to the Agency preliminary and final site plan and subdivision applications for the Project simultaneously.

SECTION 4.04 **Project Schedule.** (a) Subject to the terms of this Agreement, the Project shall be implemented in accordance with the Project Schedule. The Parties agree and acknowledge that adherence to the Project Schedule is of the essence, subject to the provisions of

this Agreement, including, without limitation, Section 4.07. The Redeveloper shall use commercially reasonable efforts to start site work and Commence Construction no later than the dates set forth in the Project Schedule, subject, however, to obtaining Governmental Approvals, and subject to any delay related to EPEC's obligation to perform environmental remediation pursuant to Article 6 hereof. Nothing herein shall be construed to prohibit Redeveloper from undertaking site work and Commencing Construction, at Redeveloper's option, prior to the dates set forth in the Project Schedule, subject to obtaining all required Governmental Approvals.

(b) Subject to the provisions of this Agreement, including, without limitation, Section 4.07, the Redeveloper shall use commercially reasonable efforts to Complete the Project no later than the Outside Completion Date.

(c) The Redeveloper shall apply to the appropriate Governmental Body for a Certificate of Occupancy for any portion or portions of the Facility requiring a Certificate of Occupancy.

(d) If, subject to the provisions of this Agreement, including, without limitation, Section 4.07, the Redeveloper fails, or determines that it will fail, to meet any relevant date for the completion of a task set forth in the Project Schedule, for any reason, the Redeveloper shall promptly provide notice to the Agency stating: (i) the reason for the failure or anticipated failure, (ii) the Redeveloper's proposed method for correcting such failure, (iii) the Redeveloper's proposal for revising the Project Schedule and (iv) the method or methods by which the Redeveloper proposes to achieve subsequent tasks by the relevant dates set forth in the revised Project Schedule. In such event the Project Schedule shall be modified accordingly, subject to the Agency's consent, which shall not be unreasonably withheld, conditioned or delayed.

(e) The Agency shall, within thirty (30) days after the Completion Date, and receipt of a written request from the Redeveloper, issue a Certificate of Completion, provided there is not then an existing Redeveloper Event of Default. The Certificate of Completion shall constitute a recordable, conclusive determination of the satisfaction (in accordance with the terms of this Agreement, the Redevelopment Plan and Applicable Law) and termination of this Agreement, and of all of Redeveloper's agreements and covenants in this Agreement.

(f) Upon the issuance and recording of the Certificate of Completion, (i) the conditions determined to exist at the time the Property was determined to be an area in need of redevelopment shall be deemed to no longer exist with respect to the Property, and (ii) the Property shall no longer be subject to (A) any covenant herein running with the land, and (B) eminent domain for purposes of redevelopment as a result of those determinations.

SECTION 4.05 Governmental Approvals. (a) Subject to EPEC's obligation to remediate the Property pursuant to Article 6 hereof, the Redeveloper shall be responsible for obtaining, at its sole cost and expense, all Governmental Approvals required to construct the Facility. Commencing not later than the Approvals Start Date, the Redeveloper shall, diligently and in good faith, use commercially reasonable efforts to obtain the Governmental Approvals for the Facility, subject to EPEC's obligation to remediate the Property pursuant to Article 6 hereof. The Parties agree to cooperate with one another and sign such consents, documents and

agreements as may be reasonably required in connection with the Governmental Approvals; provided that the Agency assumes no responsibility, implied or otherwise, for such Governmental Approvals. Attached hereto as **Exhibit F** is a list of anticipated material Governmental Approvals necessary for the Redeveloper to complete the Project. The Redeveloper shall provide the Agency with copies of all Governmental Approvals and shall keep the Agency reasonably apprised of the status of the application for all Governmental Approvals. Nothing herein shall be construed to prohibit Redeveloper from pursuing any Governmental Approvals prior to the Approvals Start Date, at Redeveloper's option.

(b) In the event that all necessary Governmental Approvals for the Project are not obtained from the required Governmental Bodies prior to the Financial Closing Date (as set forth in the Project Schedule) on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that the Governmental Approvals for the Project cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then Redeveloper shall have the right to terminate this Agreement upon written notice to the Agency. No Governmental Approval shall be deemed to have been obtained (i) until the Appeal Period relating thereto has expired and no appeal has been taken, or (ii) if an appeal is filed within the applicable Appeal Period, until such appeal shall have been finally resolved in a manner sustaining the challenged Governmental Approval. If this Agreement is terminated pursuant to the terms of this Section 4.05(b) then except as expressly set forth herein to the contrary, this Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

SECTION 4.06 Project Oversight. (a) The Redeveloper shall submit to the Agency periodic written progress reports in the form attached hereto as **Exhibit G** which shall include a description of activities completed, the activities to be undertaken prior to the next Progress Report, the status of all Governmental Approvals, an explanation of each activity, if any, which is showing delay, a description of problem areas, current and anticipated delaying factors and their estimated impact on performance of other activities and the Project Schedule, an explanation of corrective action taken or proposed and such other information as may be reasonably requested by the Agency, provided, however, that nothing herein shall require the Redeveloper to submit proprietary information or documentation that the Redeveloper, in its reasonable discretion, deems to be confidential (collectively, the "Progress Report"). Notwithstanding anything to the contrary contained herein, if the Redeveloper withholds any information or documentation from the Agency on the basis of its proprietary nature, the Redeveloper shall, without disclosing any proprietary and confidential information, provide to the Agency a written explanation of what information the Redeveloper is withholding and why such information and documentation is being withheld.

(b) The Agency reserves the right to enter upon the Property, upon reasonable notice to the Redeveloper and during business hours, to visually inspect the site for informational purposes, subject to the Agency's acknowledgment that the Property will be an active construction site and the Redeveloper shall not be liable or responsible to the Agency, its employees, agents or invitees for damages arising from injury to person or property sustained in connection with such inspections. In no event shall the Agency's inspection of the Project under

this Section 4.06(b) be deemed acceptance of the work or deemed to waive any right the Agency has under this Agreement. Permit officials shall be permitted to enter the Property on reasonable notice to Redeveloper during business hours.

SECTION 4.07 Tolling. The Redeveloper shall use commercially reasonable efforts to adhere to the Project Schedule and the provisions set forth in this Article 4; provided that such obligations shall be extended on a day-for-day basis for each day that the Redeveloper's performance hereunder is delayed by (a) the occurrence of an event of Force Majeure or (b) an extension of the Completion Date, or the date for completion of any task on the Project Schedule, with respect to any portion of the Project, granted by the Agency, in its reasonable discretion. If a delay only affects a portion of the Project, the extension granted hereunder shall only apply to the obligations so affected and the Redeveloper shall continue to perform its obligations with respect to the balance of the Project.

SECTION 4.08 Prohibition Against Suspension, Discontinuance or Termination. The Redeveloper shall not suspend or discontinue its performance of its obligations under this Agreement or terminate this Agreement (other than in the manner provided for herein) for any reason except to the extent permitted by this Agreement, including, without limitation, Sections 4.04, 4.05(b), 4.07, 5.02(f), 9.01(a) and 9.01(b), and only to the extent and for the period of time permitted by this Agreement.

SECTION 4.09 Cooperation. The Parties shall fully cooperate with each other as necessary and desirable to accomplish the Project, including entering into additional agreements that may be required; provided, however, that such actions shall not result in a material increase in the Agency's and Redeveloper's respective liabilities and obligations hereunder or material decrease in the Agency's and Redeveloper's respective rights hereunder.

SECTION 4.10 Construction Covenants. (a) The Redeveloper shall be fully and solely responsible for its compliance in all respects whatsoever with all Applicable Laws.

(b) All construction shall be performed strictly in accordance with all Applicable Laws. The Project shall be constructed solely in accordance with all Governmental Approvals, the Redevelopment Plan and all Applicable Laws.

ARTICLE 5 ACQUISITION OF EASEMENTS

SECTION 5.01 Redeveloper's Acquisition Responsibilities. Redeveloper shall identify any Easement Parcels to the Agency at the time that Redeveloper submits its application for preliminary site plan approval for the Facility, and thereafter shall promptly notify the Agency of any additional Easement Parcels as they become known to Redeveloper. The Redeveloper shall, at its sole cost and expense, use commercially reasonable efforts through good faith negotiations to execute agreements with the property owners of the Easement Parcels to obtain all Easements. Upon execution of any agreements for the Easements, the Redeveloper shall provide the Agency with written proof of the existence of such Easements.

SECTION 5.02

Condemnation of Easements.

(a) In the event the Redeveloper is unable to obtain any Easement through good faith negotiations, the Redeveloper shall have the right to submit an Acquisition Notification to the Agency requesting that the Agency exercise its power of condemnation with respect to such Easement(s) in accordance with this Agreement, the Act and the Eminent Domain Law. The Redeveloper's Acquisition Notification shall request that the Agency acquire the subject Easement through negotiation and contract as required pursuant to Section 6 of the Eminent Domain Law. An "Acquisition Notification" shall include copies of (i) evidence supporting the Redeveloper's good faith negotiations; (ii) title work; (iii) a certification of the Redeveloper that it is not aware of any Redeveloper Event of Default; and (iv) surveys or plans with respect to the Easement(s) specified in the Acquisition Notification. The Redeveloper shall pay all Acquisition Costs regardless of whether (1) the Agency's actions pursuant to this Article 5 result in the successful acquisition of any Easement, (2) the Redeveloper issues a Revocation Notification pursuant to Section 5.02(c), or (3) this Agreement is terminated for any reason prior to the successful acquisition of any Easement. Redeveloper's obligation to pay Acquisition Costs incurred prior to any termination of this Agreement shall survive such termination.

(b) Upon receipt of an Acquisition Notification and the required documentation, the Agency shall proceed diligently and in good faith to commence condemnation and prosecute proceedings in accordance with the Act and the Eminent Domain Law; provided that (i) the Redeveloper is in compliance with the Project Schedule, (ii) there is no existing uncured Redeveloper Event of Default and (iii) the Redeveloper has provided the Agency with the Eminent Domain Deposit of funds sufficient to pay the Acquisition Costs. If the Redeveloper fails to meet any of the above requirements, the Agency may, in its sole discretion, determine not to proceed with the acquisition of the Easements pursuant to this Section 5.02. Notwithstanding anything to the contrary contained herein, it shall not be an Agency Event of Default if the agency fails to successfully obtain any Easements pursuant to its power of eminent domain after the Redeveloper's issuance of an Acquisition Notification, but it shall be an Agency Event of Default if the Agency fails to proceed diligently and in good faith to commence and prosecute condemnation proceedings in accordance with and subject to this Article 5 and any notice and cure period expressly set forth in this Agreement.

(c) The Redeveloper shall have the right, at any time, upon written notice to the Agency, to revoke any Acquisition Notification (a "Revocation Notification"). Upon receipt of a Revocation Notification, the Agency shall immediately cease all attempts to obtain the Easements through negotiation and contract and abandon any action commenced pursuant to the Eminent Domain Law in accordance with Sections 35 and 36 of the Eminent Domain Law.

(d) In connection with the acquisition of any Easements pursuant to this Section 5.02, the Agency agrees to provide regular updates to the Redeveloper of the status of its efforts to procure the Easement. Further, the Agency shall provide written notice to the Redeveloper of the execution of any agreement securing an Easement or the successful condemnation of an Easement. The Redeveloper shall be entitled to copies of any agreements or awards relating to an acquired Easement.

(e) With respect to any eminent domain proceedings instituted by the Agency, the Redeveloper agrees that the Agency shall be entitled to appoint outside legal counsel to act as special counsel to conduct said eminent domain proceedings. In addition, the Agency shall have the right to hire real property appraisers, surveyors and such other professionals as may reasonably be required in connection with such eminent domain proceedings, the reasonable costs of which shall be deemed to be Acquisition Costs. Prior to the retention of any such professional consultant, the Agency shall consult with the Redeveloper and provide a schedule of the estimated costs and expenses for the consultation services contemplated. The Agency agrees that it will cause any attorney retained by it to prosecute any eminent domain action in consultation with the Redeveloper and its professionals and to frequently provide the Redeveloper with status update reports on all negotiations and any eminent domain proceedings. The Redeveloper, the Agency and the Agency's special counsel shall discuss all strategies such attorney proposes, including settlement limits and strategies.

(f) If Redeveloper determines that any Easements cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then Redeveloper shall have the right to terminate this Agreement upon written notice to the Agency. No Easement obtained pursuant to Eminent Domain shall be deemed to have been obtained (i) until the Appeal Period relating to the condemnation action has expired and no appeal has been taken, or (ii) if an appeal is filed within the applicable Appeal Period, until such appeal shall have been finally resolved in a manner sustaining the condemnation of the Easement. If this Agreement is terminated pursuant to the terms of this Section 5.02(f) then except as expressly set forth herein to the contrary, this Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder, except as expressly survive termination of this Agreement.

SECTION 5.03 Security for Good Faith Offers and Insurance.

(a) Prior to and as a condition to making a good faith offer by the Agency pursuant to the Eminent Domain Law (the "Good Faith Offer"), with respect to any Easement, the Redeveloper shall provide to the Agency security for Acquisition Costs, as described below. Furthermore, prior to exercising any rights under the Easements, Redeveloper shall obtain such liability insurance or environmental indemnity insurance required for the Easements, as shall be reasonably approved by the Agency consistent with the terms of this Agreement.

(b) Security for Acquisition Costs. The Redeveloper shall provide to the Agency a deposit as security for Acquisition Costs in the form of immediately available funds in an amount equal to the appraised value of each Easement for which a Good Faith Offer is to be made plus the estimated amount of all other Acquisition Costs that will be required in connection with the Agency's prosecution of the condemnation action with respect to such Easements, which shall be based on documentation provided by the Agency to Redeveloper and which shall be subject to Redeveloper's reasonable approval (the "Eminent Domain Deposit"). The Agency shall make a Good Faith Offer only upon five (5) business days' prior notice to and with the consent of the Redeveloper. The Eminent Domain Deposit shall be held pursuant to escrow terms and by an escrow agent mutually agreeable to the Agency and the Redeveloper (the

“Escrow Agent”) in an interest-bearing account and interest accrued shall become part of the Eminent Domain Deposit. The Eminent Domain Deposit shall be made available to the Agency upon receipt of written demand therefor, for the purpose of paying the Acquisition Costs in connection with the acquisition of any Easement. provided, however, that Escrow Agent shall not honor said demand (unless pursuant to the order of a court of competent jurisdiction for a non-appealable award for the taking of any Easement) until at least five (5) days after it has sent a copy of such demand to Redeveloper, nor thereafter if Escrow Agent shall have received written notice of objection from Redeveloper. Should the Acquisition Costs exceed the amount of the Eminent Domain Deposit, the Redeveloper agrees to pay the full amount of those costs within five (5) business days of the receipt of written notice from the Agency that such costs are due. Should the Agency be required to deposit funds into court or make payment to the property owner for the acquisition of any Easement, and there are not sufficient funds in the Eminent Domain Deposit to cover those costs, the Redeveloper agrees to pay the full amount of those costs to the Agency within five (5) business days of the receipt of written notice from the Agency that such costs are due, provided that the Redeveloper has been given a copy of the approved appraisal of each parcel for which the Agency requests payment and supporting documentation with respect to the amount due. The Redeveloper shall take all necessary steps and make all necessary payments to or on behalf of the Agency in a timely fashion to meet this obligation of this Agreement. Any delay by the Redeveloper in the provision of funds pursuant to this Section 5.03(b) shall toll the Agency’s obligation to acquire the Easements pursuant to this Article 5.

ARTICLE 6

ENVIRONMENTAL PROVISIONS

SECTION 6.01 Brownfield Development Area. The Property is part of a larger tract which is part of a Brownfield Development Area designated by the New Jersey Department of Environmental Protection (“NJDEP”). The larger tract is currently owned by EPEC Polymers, Inc. (“EPEC”) and the Redeveloper is the holder of an option to acquire the Property from EPEC. EPEC is presently conducting an environmental remediation of the larger tract, including the Property, pursuant to ISRA under the oversight of NJDEP’s Office of Brownfield Redevelopment (the “ISRA Case”). In connection with the ISRA Case, EPEC has developed, and will continue to develop, extensive documentation regarding environmental conditions and the remediation of Hazardous Substances at the Property. The Redeveloper and the Agency acknowledge that the effort of EPEC and NJDEP in the ISRA Case is a critical element of the Project and that the Redeveloper is relying on that effort in order to prepare the Property for the Project.

SECTION 6.02 Environmental Testing. The parties acknowledge and agree that EPEC is responsible, at its sole cost and expense, for environmental testing, site analysis and remediation as may be required to be undertaken as a precondition to the securing of all Governmental Approvals required for the development of the Project by Governmental Bodies. The Project Schedule shall be modified to account for any delay by EPEC in remediating the Property in accordance with the terms of this Article 6. Except as set forth in Section 6.03(g), the Agency shall look solely to EPEC to obtain any documentation pertaining to the environmental condition or remediation of the Property.

SECTION 6.03 Environmental Covenants. (a) The Redeveloper represents, warrants and covenants that (i) it shall not take any action to cause the Property to violate Environmental Laws, and (ii) it will keep the Property free of any lien imposed pursuant to any Environmental Default by the Redeveloper.

(b) The Redeveloper covenants that it will diligently deliver to the Agency copies of all Governmental Approvals, and notices of violations thereof, received by Redeveloper from any federal, State, county or municipal entity, including without limitation the United States Environmental Protection Agency and the NJDEP.

(c) In addition to the requirements of this Section 6.03, the Redeveloper shall, at its sole cost and expense, to the extent applicable to the Redeveloper, comply with the reporting requirements of the Emergency Planning and Community Right to Know Act, 42 U.S.C. 11011 *et seq.* and the Toxic Catastrophe Prevention Act, *N.J.S.A. 13:1K-19 et seq.*

(d) The Redeveloper shall use the Property exclusively for redevelopment construction and operation of the Facility in compliance with all Environmental Laws and all other Applicable Laws.

(e) Subject to EPEC's rights, obligations and liabilities under the ISRA Case, the Redeveloper shall not use, and shall not permit any other person or entity to use, the Property to generate, treat, store or dispose of any Hazardous Substances or any solid waste or other waste or debris on the Property except: (i) where stored in appropriate containers and in quantities normally associated with the construction, installation, startup, operation, maintenance, repair, restoration or removal of the Facility, (ii) as normally and customarily used or required to be used in connection with the construction, installation, startup or operation of the Facility, or for the routine maintenance and cleaning of offices and activities necessary to support the Facility, or (iii) which is otherwise in compliance with all Applicable Laws.

(f) In all such instances where the Redeveloper is authorized or required hereunder to store or otherwise use or handle Hazardous Substances hereunder, or to generate, treat or store any Hazardous Substance or solid waste or other waste or debris on the Property, or to remediate same, the Redeveloper shall conduct such activities in compliance with all Environmental Laws and shall promptly remove all waste and other debris from the Property after it is generated in accordance with Environmental Law.

(g) The Redeveloper shall provide to the Agency prompt written notice of any releases or discharges of Hazardous Substances on the Property which occur after Redeveloper's acquisition of the Property, except with respect to any release or discharge which is being remediated by EPEC, or which is the obligation of EPEC to remediate. The Redeveloper covenants, at the Redeveloper's sole cost and expense and in accordance with all Environmental Laws, to investigate and remediate, or cause to be investigated and remediated by a responsible party, any spill, release or discharge of Hazardous Substances occurring on the Property after Redeveloper's acquisition thereof, provided, however, that Redeveloper shall not have any obligation to report, investigate or remediate any spill, release or discharge of Hazardous

Substances on the Property which is being remediated by EPEC, or which is the obligation of EPEC to remediate.

(h) The Redeveloper shall, at its sole cost and expense, contract with a private waste removal company for the removal and disposal of any solid waste generated or introduced by the Redeveloper as part of the Project, all in accordance with all Environmental Laws and all other Applicable Laws. The Redeveloper shall not dispose of any Hazardous Substances through the sewer system or other public facility of the Township except in accordance with all Environmental Laws and all other Applicable Laws.

(i) The Parties acknowledge and agree that no adequate remedy exists at law for a breach of this Article 6 by the Redeveloper. Accordingly, the Agency may obtain specific performance of any provision of this Article 6. This Section 6.03(i) shall not be construed to limit any remedies which the Agency otherwise may have against the Redeveloper at law or in equity for a breach of any provision of this Article 6. In addition, the Parties acknowledge and agree that the indemnification set forth in Article 7 shall apply to liabilities under this Article 6.

ARTICLE 7 INDEMNIFICATION

SECTION 7.01 Indemnity. In addition to the provisions of Article 6 above, the Redeveloper agrees to and shall indemnify, hold harmless and defend the Indemnified Parties at the Redeveloper's sole cost and expense from and against any and all damages (including without limitation, damages relating to any loss of life, personal injury, damage to property, both real and personal, but not consequential or punitive damages), liabilities, expenses, claims or actions by any person or entity arising from or out of any negligence or willful misconduct of the Redeveloper. Such indemnification includes, but is not limited to: (i) any negligent act or willful misconduct of, or at the direction of, the Redeveloper, its agents, servants, vendors, contractors, subcontractors or employees in, at or upon the Property; (ii) an Environmental Default; and/or (iii) an Event of Default by the Redeveloper under this Agreement; provided, however, that the Redeveloper shall not be liable nor required to indemnify the Indemnified Parties for the negligence or willful misconduct of the Agency, its elected officials, officers, agents, employees, managers, consultants, contractors or subcontractors. The provision of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 COSTS ASSOCIATED WITH THE PROJECT

SECTION 8.01 Project Costs. All costs of implementing and Completing the Project, including but not limited to the cost of obtaining all Governmental Approvals, the cost of Redeveloper's compliance with all Environmental Laws in accordance with Article 6 hereof, the cost of designing and constructing (including the costs of any construction observation services) the Improvements, all financing costs, all marketing and leasing costs for the Project and the Agency Costs (collectively, the "Project Costs") shall be borne by the Redeveloper.

Except if otherwise specifically set forth herein, the Agency shall not be responsible for any costs associated with the Project.

SECTION 8.02 Agency Costs. The Redeveloper shall provide funding to the Agency for all out of pocket costs incurred by the Agency in connection with the Project. Such out of pocket costs shall be subject to the requirements of Section 1.03(j) of this Agreement and include, but are not limited to, all fees and costs of any outside professional consultant, legal, engineering or financial advisory services retained by the Agency related to the Project (the "Agency Costs"). The Redeveloper has established with the Agency an escrow account (the "Escrow"), having an initial minimum balance of Twenty Five Thousand Dollars (\$25,000.00), to cover the Agency Costs. Prior to the Agency's withdrawal of funds from the Escrow, the Agency shall provide the Redeveloper with a copy of each invoice reflecting the Agency Costs to be paid. Unless the Redeveloper promptly (within ten (10) days of its receipt of any such copy) provides a written objection to any invoiced item as not being an Agency Cost, the Agency shall be free to withdraw funds from the Escrow for payment of such invoiced services. From time to time during the implementation of the Project and until its completion, the Redeveloper agrees to maintain and, if necessary, replenish the Escrow to Twenty Five Thousand Dollars (\$25,000.00) if and when the Escrow is drawn down to or below Ten Thousand Dollars (\$10,000), upon the request of the Agency to provide for the requisite minimum balance, to cover anticipated costs as provided in this Agreement. Any dispute concerning payment of the Agency Costs shall be resolved in accordance with the procedures set forth in *N.J.S.A. 40:55D-53.2a*. Upon the issuance of the Certificate of Completion, or upon termination of this Agreement, except in the event of a termination caused by a default of the Redeveloper, any money remaining in the Escrow Account shall be promptly disbursed to the Redeveloper, except that the Agency may retain an amount sufficient to cover reasonably budgeted expenses. The Agency shall comply with the provisions of *N.J.S.A. 40:55D-53.1* and *53.2* which govern escrow deposits including, without limitation, matters pertaining to the form of vouchers for professional services, interest, accounting, and professional charges, provided, however, that in the event of any inconsistency between the terms of this Section 8.02 and *N.J.S.A. 40:55D-53.1* and *53.2*, the terms of this Section 8.02 shall prevail.

SECTION 8.03. Affordable Housing Requirement. The Redeveloper shall pay any Affordable Housing Fees required in connection with the Project pursuant to Applicable Laws, including, without limitation, the Non-Residential Development Fee pursuant to the Development Fee Act. If applicable, Redeveloper shall pay the entirety of any Non-Residential Development Fee pursuant to the Development Fee Act upon issuance of any Certificate of Occupancy for any portion or portions of the Facility for which a Certificate of Occupancy is required in accordance with the Development Fee Act.

ARTICLE 9

PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

SECTION 9.01 Prohibition Against Transfers. The Redeveloper recognizes the importance of the Project to the general welfare of the community and that the identity of the Redeveloper and its qualifications are critical to the Agency in entering into this Agreement. The Parties acknowledge and agree that a change in majority ownership or control of the

Redeveloper from that which is noted in **Exhibit H** attached hereto is, for practical purposes, a transfer or disposition of the Project then owned by the Redeveloper.

Except for Permitted Transfers, prior to the date when Redeveloper is entitled to a Certificate of Completion pursuant to the terms of this Agreement; the Redeveloper shall not, without the prior written consent of the Agency: (a) effect or permit any change, directly or indirectly, in the majority ownership or control of the Redeveloper (except in the case of death or divorce of an individual(s) having or affecting such ownership or control), (b) assign or attempt to assign this Agreement or any rights herein or in the Property, or (c) sell, lease, transfer or convey the whole or any part of the Property or the Improvements (clauses a, b and c above shall collectively be referred to as a "Transfer").

SECTION 9.02 Permitted Transfers. The following Transfers are exceptions to the prohibitions of this Article 9 and the Agency's consent is deemed given hereby (the "Permitted Transfers"); provided that notice of same is given to the Agency as required below: (a) Mortgages, leases, and other liens and encumbrances for the purpose of financing the costs associated with, or incurred in connection with the acquisition, development, construction and operation of the Facility; (b) the Declaration; (c) utility and other development easements; (d) a lease to a tenant for the purpose of operating a permitted business of that tenant as a part of the Project under the Redevelopment Plan; (e) a Transfer to an Affiliate of the Redeveloper, including, without limitation, a qualified Urban Renewal Entity, (f) a Transfer pursuant to a foreclosure or deed in lieu of foreclosure, and any Transfer by any Mortgagee, or any Mortgagee's successor and/or assigns after foreclosure; (g) any Transfer in connection with which Redeveloper or an Affiliate of Redeveloper is contractually obligated to pursue development of the Project; and (h) any contract or agreement with respect to any of the foregoing Permitted Transfers. With respect to any of the Permitted Transfers, the Redeveloper shall provide to the Agency written notice within thirty (30) days after such Permitted Transfer, including a description of the nature of such Permitted Transfer, and the name(s) and address(es) of the transferee and any parties, individuals and/or entities comprising such Permitted Transfers.

SECTION 9.03 Transfers Void. Any Transfer in violation of this Article 9 shall be an Event of Default of the Redeveloper and shall be null and void *ab initio*. Such Event of Default shall entitle the Agency to seek all remedies available under the terms hereof, and those available pursuant to law or equity, including termination of this Agreement. The Declaration shall contain a restriction against Transfers as set forth in this Article 9 and, in addition, shall provide that in the event of any attempted Transfer in violation of the restrictions in this Article 9, the Agency shall be entitled to the *ex parte* issuance of an injunction restraining such Transfer, and the award of legal fees and related expenses of the Agency in connection with any such legal action. Upon the recording of the Declaration in the Office of the Middlesex County Clerk, this provision affording such injunctive relief shall have the same force and effect as a Notice of Lis Pendens. Upon recording of the Certificate of Completion, the provisions set forth in this Article 9 shall be deemed terminated for the Property.

SECTION 9.04 Consent to Transfer. Notwithstanding anything to the contrary contained herein, with respect to any Transfer that requires the Agency's consent pursuant to the terms of this Article 9, the Agency shall not unreasonably withhold, condition or delay its

consent to such Transfer. The Agency shall notify the Redeveloper in writing whether the Agency consents to a Transfer within thirty (30) days after Redeveloper's written request to the Agency for such consent. If the Agency does not deliver a written response to the Redeveloper's request within said thirty (30) day period, then the Agency shall be deemed to have consented to such requested Transfer. The Agency shall not withhold, condition or delay its consent to any Transfer to a transferee that has the same or greater experience and technical capability to carry out the Project as CPV Shore, LLC, and has the same or greater wherewithal to obtain financing for the Facility as CPV Shore, LLC.

ARTICLE 10

MORTGAGE FINANCING

SECTION 10.01 Financing/PILOT. (a) In the event that the Redeveloper is unable to obtain financing for the Project on terms and conditions acceptable to Redeveloper in its sole discretion, or if Redeveloper determines that financing for the Project cannot be obtained on terms and conditions acceptable to Redeveloper in its sole discretion, then Redeveloper shall have the right to terminate this Agreement upon written notice to the Agency.

(b) The Redeveloper shall have the right to terminate this Agreement upon written notice to the Agency if the Township and the Redeveloper have not duly executed and delivered the Financial Agreement within ninety (90) days after the Effective Date.

(c) If this Agreement is terminated pursuant to the terms of this Section 10.01 then, except as expressly set forth herein to the contrary and upon full payment of all Agency Costs accruing until the date of such termination, this Agreement (including, without limitation, all the covenants contained herein) shall be of no further force and effect and the Parties hereto shall have no further rights, liabilities and/or obligations hereunder.

SECTION 10.02 Mortgagee Not Bound. Notwithstanding any of the provisions of this Agreement to the contrary, and subject to the terms of this Article 10, any Mortgagee, or any Person who obtains title to the Property as a result of foreclosure proceedings or action in lieu thereof, shall in no way be obligated by the provisions of this Agreement, including but not limited to those provisions which are or are intended to be covenants and restrictions. Nothing in this Article 10 shall, however, be deemed or construed to permit or authorize any such Mortgagee, or other Person to devote the Property, or any part thereof, to any uses, or to construct any project thereon, other than those uses provided or permitted under the Redevelopment Plan, Governmental Approvals, Applicable Laws and this Agreement.

SECTION 10.03. Completion of Project. Notwithstanding anything to the contrary contained herein, any Mortgagee, any Person who obtains title to the Property as a result of foreclosure proceedings or action in lieu thereof, and any Equity Investor shall have the right to receive an assignment of all of Redeveloper's rights under this Agreement, and undertake or continue implementing the Project, including the construction of the Improvements already begun, provided such Mortgagee, Equity Investor or other Person expressly assumes all of Redeveloper's obligations under this Agreement, by written agreement satisfactory to the

Agency. Any such Mortgagee, Equity Investor or other Person who shall properly complete the Project shall be entitled to receive a Certificate of Occupancy and Certificate of Completion as set forth in Article 4 hereof.

SECTION 10.04 Notice of Default to Mortgagee and Right to Cure. Whenever the Agency shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper under this Agreement, the Agency shall at the same time deliver to each Mortgagee and Equity Investor a copy of such notice or demand; provided that the Redeveloper has delivered to the Agency a written notice of the name and address of such Mortgagee and/or Equity Investor. Each such Mortgagee and Equity Investor shall (insofar as the rights of the Agency are concerned) have the right at its option, within ninety (90) days after the receipt of such notice, to cure or remedy, or to commence to cure or remedy, any such default and to add the cost thereof to any debt or equity which it holds. The Agency shall not seek to enforce any of its remedies under this Agreement during the period in which any such Mortgagee or Equity Investor is proceeding diligently and in good faith to cure a Redeveloper Event of Default. If possession of the Property is necessary to cure any default or breach, any Mortgagee or Equity Investor will be allowed to complete any proceedings required to obtain possession of the Property.

SECTION 10.05 Lender Requirements. If any prospective Mortgagee or Equity Investor requires modifications of the terms of this Agreement as a condition to entering into any Mortgage, or acquiring an equity stake in Redeveloper, the Agency shall reasonably cooperate with the Redeveloper in approving such modifications, at no cost to the Agency, so long as such modifications, do not materially change the rights or obligations of the Agency as set forth in this Agreement and, in the reasonable opinion of the Agency, do not materially impair the objectives and interest of the Agency or render the Completion of the Project or any portion thereof in jeopardy.

SECTION 10.06 Estoppel Certificate. Within thirty (30) days following written request therefore by the Redeveloper, or of any Mortgagee, Equity Investor, lender, purchaser, tenant or other party having an interest in the Project, the Agency shall issue a signed estoppel certificate either stating this Agreement is in full force and effect and that there is no default or breach under this Agreement, or stating the nature of the default or breach or event, if any; and stating such other matters as may reasonably be requested. In the event the estoppel certificate discloses such a default, breach or event, it shall also state the manner in which such default, breach and/or event may be cured. No more than a reasonable number of estoppel certificates may be requested per year.

ARTICLE 11 EVENTS OF DEFAULT

SECTION 11.01 Events of Default. Any one or more of the following shall constitute an “Event of Default” hereunder, subject to the provisions of this Agreement, including, without limitation, Section 4.07:

(a) Failure of the Redeveloper or the Agency to observe and perform any material covenant, condition, representation, warranty or agreement hereunder, and continuance of such failure for a period of thirty (30) days, after receipt by the defaulting Party of written notice from the non-defaulting Party specifying the nature of such failure and requesting that such failure be remedied; provided, however, if the breach of any such covenant, condition or agreement is one which cannot be completely remedied within the thirty (30) days after such written notice has been given, it shall not be an Event of Default as long as the defaulting Party is proceeding with due diligence to remedy the same as soon as practicable but in no event later than one hundred eighty (180) days after such written notice.

(b) The Redeveloper shall materially default in or violate its obligations with respect to the construction of the Facility in accordance with this Agreement (including the Project Schedule), the Redevelopment Plan, the Governmental Approvals or Applicable Laws, including but not limited to, failure to Commence Construction or Complete Construction in accordance with the Project Schedule as may be modified pursuant to the terms of this Agreement, or abandonment or suspension of construction work (unless such suspension arises out of a delay set forth in Article 12 or is otherwise permitted in accordance with this Agreement, including, without limitation, Section 4.04), and any such default, violation, abandonment or suspension shall not be cured, ended, or remedied within ninety (90) days after written demand by the Agency to do so (provided that it shall not be an Event of Default if the Redeveloper is proceeding with due diligence to remedy the same as soon as practicable).

(c) The Project shall not be complete, as evidenced by a Certificate of Completion, on the Outside Completion Date, which date is subject to extension pursuant to the terms of Sections 4.04 and 4.07 or as otherwise provided in this Agreement.

(d) The Redeveloper, its successor or assigns shall fail to pay any real estate taxes, or any assessment on the Property, or any part thereof when due, or shall fail to make any payments required under this Agreement, and such failure shall continue for sixty (60) days after written notice by the Agency.

(e) There is, in violation of this Agreement, a Transfer of the Property as prohibited in Article 9.

SECTION 11.02 Remedies Upon Default; Termination. (a) Upon an Event of Default by the Agency which is continuing and remains uncured beyond any applicable notice and cure dates, the Redeveloper may terminate this Agreement upon not less than thirty (30) days advance written notice to the Agency, and/or take whatever action at law, or in equity, as may appear necessary or desirable to enforce the performance or observance of any rights under this Agreement, including an action for specific performance or damages.

(b) Upon an Event of Default by the Redeveloper which is continuing and remains uncured beyond applicable notice and cure dates, the Agency may terminate this Agreement, upon not less than thirty (30) days advance written notice to Redeveloper and any Mortgagee and/or Equity Investor, and/or take whatever action at law or in equity, as may appear necessary or desirable to enforce the performance or observance of any rights under this Agreement. The

Agency hereby waives and releases any right it may have to seek specific performance against Redeveloper.

SECTION 11.03 Remedies Cumulative. No remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

SECTION 11.04 Mitigation. The Parties shall act reasonably to mitigate any damages that may be incurred as the result of an Event of Default hereunder; provided, however, that the costs of any mitigation efforts shall be at the sole cost of the defaulting Party.

ARTICLE 12 DELAYS

SECTION 12.01 Force Majeure. Performance by any Party hereunder shall not be deemed to be in default where delays or failure to perform are the result of events or conditions beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under the terms of this Agreement, including without limitation, the following (“Force Majeure”):

(a) An act of God, lightning, blizzards, hurricane, tornado, earthquake, acts of public enemy, war (whether or not declared), terrorism, blockade, insurrection, riot or civil disturbance, sabotage or similar occurrence, but not including reasonably anticipated weather conditions for the geographic area of the Property, other than those set forth above (such events being required to physically affect a Party’s ability to fulfill its obligations hereunder; and the consequential effect of such events (e.g., impact on market conditions) shall not be considered a Force Majeure event);

(b) A landslide, fire, explosion, flood, release of nuclear radiation, damage to or theft of any part of the Improvements, or any casualty not created by the willful misconduct or grossly negligent act or omission of the party claiming Force Majeure;

(c) The order, judgment, action or inaction and/or determination of any Governmental Body (other than the Agency when acting in conformance with this Agreement) excepting decisions interpreting federal, State and local tax laws generally applicable to all business taxpayers; provided, however, such order, judgment, action or inaction and/or determination shall not be the result of the willful misconduct or grossly negligent action or inaction of the Party relying thereon. Neither the contesting of any such order, judgments, action or inaction and/or determination, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as willful misconduct or grossly negligent action or inaction by such Party;

(d) The suspension, termination, interruption, denial, or failure of or delay in renewal

or issuance of any Governmental Approval (including due to any appeal), provided, however, such suspension, termination, interruption, denial, or failure of or delay in renewal or issuance shall not be the result of the willful misconduct or grossly negligent action or inaction of the Party relying thereon. Neither the contesting of any such suspension, termination, interruption, denial or failure of renewal or issuance, in good faith, nor the reasonable failure to so contest, shall constitute or be construed as willful misconduct or grossly negligent action or inaction by such Party; or

(e) An inability to procure goods, services, or any of the Improvements for any reason not caused by the willful misconduct or grossly negligent act or omission of the party claiming Force Majeure, including, without limitation, the limited manufacturing capacity of any suppliers; a general shortage of labor, equipment, facilities, energy, materials or supplies in the open market; failure of transportation, strikes, lockouts, slowdowns or similar labor action by trade unions or any of their members, equipment manufacturers, suppliers of material and/or transporters of same; or any other economic condition that may adversely affect the Project, the Redevelopment Area or the real estate or energy markets.

Any event of Force Majeure affecting any counterparty to an agreement with either or both of the Parties hereto shall be considered an event of Force Majeure hereunder. Notice by the Party claiming such extension shall be sent to the other Party within thirty (30) calendar days of the commencement of the cause. During any Force Majeure that affects part of the Project, the Redeveloper shall continue to perform its obligations for the rest of the Project. The existence of an act of Force Majeure shall not prevent a Party from declaring the occurrence of an Event of Default by the Party relying on such Force Majeure; provided that the event that is the basis of the Event of Default is not a result of the Force Majeure.

ARTICLE 13 INSURANCE

SECTION 13.01 General Requirements. Prior to commencement of construction of the Project, the Redeveloper shall provide and maintain, or cause to be maintained, insurance for the Property in the Redevelopment Area as provided below until the Certificate of Completion has been issued with regard to the Project.

The Redeveloper shall furnish the Agency with satisfactory proof that it has obtained the insurance described below. The Redeveloper shall furnish to the Agency certificates for the following types of insurance showing the type, amount, and class of operations insured, and the effective and expiration dates of the policies. The certificates shall be submitted promptly upon execution of this Agreement and the Redeveloper shall not be entitled to exercise any rights hereunder until the certificate has been received and verified.

SECTION 13.02 Insurance Required.

(a) (i) All insurance policies required by this Article 13 shall be obtained from insurance

companies licensed to conduct business in the State and rated at least A- in Best's Insurance Guide.

(ii) All insurance policies required by this Section shall be non-assessable and shall contain language to the effect that (1) the policies are primary and noncontributing with any insurance that may be carried by the Agency, (2) to the extent available, that the policies cannot be canceled or materially changed except after thirty (30) days written notice by the insurer to the Agency, and (3) the Agency shall not be liable for any premiums or assessments. The Redeveloper shall be responsible to pay any deductible amount under all insurance policies.

(b) The Redeveloper shall furnish or cause to be furnished to the Agency evidence satisfactory to the Agency of (i) Commercial General Liability Insurance having a limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, and (ii) Umbrella Excess Liability Coverage having a limit of \$10,000,000 per occurrence and \$10,000,000 in the aggregate, insuring the Redeveloper against losses, costs, liabilities, claims, causes of action and damages for bodily injury, property damage and personal injury on the Property in the Redevelopment Area, or related to the construction thereon, including claims made by subcontractor personnel. Such insurance shall include blanket contractual liability coverage. All such policies shall be written to apply to all bodily injury, property damage, personal injury and other customary covered losses, however occasioned, occurring during the policy term, and shall be endorsed to add the Agency as an additional insured and to provide that such coverage shall be primary and that any insurance maintained by the Agency shall be excess insurance only. Such coverage shall be endorsed to waive the insurer's rights of subrogation against the Agency.

(c) The Redeveloper shall furnish or cause to be furnished to the Agency evidence satisfactory to the Agency of Builder's Risk Insurance for the benefit of the Redeveloper (subject to the interests of any lender or Mortgagee), during the term of construction, sufficient to protect against loss or damage resulting from fire and lightning, the standard extended coverage perils, vandalism, and malicious mischief.

(d) The Redeveloper shall furnish or cause to be furnished to the Agency evidence satisfactory to the Agency of workers' compensation insurance as required by law, and an employer's liability insurance endorsement with customary limits, and shall be endorsed with a waiver of subrogation clause for the Agency.

(e) The Redeveloper shall furnish or cause to be furnished to the Agency evidence reasonably satisfactory to the Agency that any consultant with whom it has contracted for the design of the Project carries errors and omissions insurance having a limit of \$5,000,000.

ARTICLE 14 MISCELLANEOUS

SECTION 14.01 Conflict of Interest. No member, official or employee of the Agency shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement that is prohibited by law.

SECTION 14.02 No Consideration For Agreement. The Redeveloper warrants it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, financial consultants and attorneys. The Redeveloper further warrants it has not paid, or incurred any obligation to pay, any officer or official of the Agency, any money or other consideration for or in connection with this Agreement.

SECTION 14.03 Non-Liability of Officials and Employees of the Agency. No member, official or employee of the Agency shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Agency, or for any amount which may become due to the Redeveloper or its successor, or on any obligation under the terms of this Agreement.

SECTION 14.04 Non-Liability of Officials and Employees of the Redeveloper. No member, officer, shareholders, director, partner or employee of the Redeveloper, and no Affiliate of Redeveloper, or member, officer, shareholders, director, partner or employee of any Affiliate of the Redeveloper shall be personally liable to the Agency, or any successor in interest, in the event of any default or breach by the Redeveloper or for any amount which may become due to the Agency, or its successors, on any obligation under the terms of this Agreement.

SECTION 14.05 Inspection of Records.

(a) To confirm the accuracy of any Progress Report submitted to the Agency by Redeveloper in accordance with this Agreement, or upon any request by Redeveloper for an extension of time to complete any requirement or obligation set forth in this Agreement, the Agency shall have the right, upon reasonable advance notice, at reasonable times, to inspect such records of the Redeveloper pertaining to the progress of development and construction of the Project as are relevant to confirm the reasonableness of Redeveloper's requested extension of time, or to confirm the accuracy of a Progress Report, as the case may be.

(b) Redeveloper shall have the right at all reasonable times to inspect the records of the Agency pertinent to the purposes of this Agreement.

(c) Such inspections must be performed at a time and in a manner as to not unreasonably interfere with the business operations of the party whose records are being inspected and be for a legitimate business purpose affecting the material interest of the party seeking the inspection.

(d) Nothing herein shall require Redeveloper to allow the inspection of any proprietary or financial documentation that Redeveloper, in its reasonable discretion, deems to be confidential. If the Redeveloper denies the Agency access to any documentation on the basis of its proprietary nature, the Redeveloper shall, without disclosing any proprietary and confidential information, provide to the Agency a written explanation of why Redeveloper is withholding such documentation.

(e) Nothing herein shall be deemed to limit Redeveloper's rights pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et. seq.

SECTION 14.06 Modification of Agreement. No modification, waiver, amendment, discharge, or change of this Agreement shall be valid unless the same is in writing, duly authorized, and signed by the Parties.

SECTION 14.07 Notices and Demands. A notice, demand or other communication under this Agreement by any Party to the other shall only be sufficiently given or delivered if dispatched by United States Registered or Certified Mail, postage prepaid and return receipt requested, or delivered by overnight courier or delivered personally (and receipt acknowledged) to the Parties at their respective addresses set forth herein, or at such other address or addresses with respect to the Parties or their counsel as any party may, from time to time, designate in writing and forward to the others as provided in this SECTION 14.07.

WOODBIDGE REDEVELOPMENT AGENCY

Caroline Ehrlich, Executive Director
Woodbridge Redevelopment Agency
Municipal Building
1 Main Street
Woodbridge, New Jersey 07095

With copies to:

William W. Northgrave, Esq.
McManimon, Scotland and Baumann, LLC
75 Livingston Avenue
Roseland, New Jersey 07068

CPV SHORE, LLC

c/o Competitive Power Ventures, Inc.
8403 Colesville Road, Suite 915
Silver Spring, MD 20910
Attention: General Counsel

With copies to:

CPV Shore LLC
c/o Competitive Power Ventures, Inc.
50 Braintree Hill Office Park, Suite 300
Braintree, MA 02184
Attention: Mark O. Turner

And to:

Glenn S. Pantel, Esq.
Drinker, Biddle & Reath LLP
500 Campus Drive
Florham Park, NJ 07932

Any such notice sent by mail shall be deemed to have been received by the addressee on the third business day after posting in the United States mail, or, if transmitted by messenger or a priority delivery service, on the first business day after transmittal. Counsel for a party may give notice to the other party with the same effect as if given by a party.

SECTION 14.08 **Severability.** The validity of any Articles, clause or provision of this Agreement shall not affect the validity of the remaining Articles, clauses or provisions hereof.

SECTION 14.09 **Successors Bound.** This Agreement shall be binding upon the respective Parties hereto and their successors and assigns.

SECTION 14.10 **Governing Law; Dispute Resolution.** This Agreement shall be governed by and construed by the laws of the State of New Jersey; any disputes arising hereunder shall be resolved in the Superior Court, State of New Jersey, Middlesex County Vicinage.

SECTION 14.11 **Counterparts.** This Agreement may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

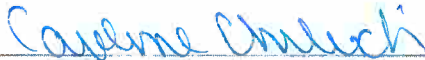
SECTION 14.12 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written agreements between the Parties with respect to the subject matter hereof.

SECTION 14.13 **Review by Counsel.** This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey without regard to or any presumption or other rule requiring construction against the party drawing or causing this Agreement to be drawn since counsel for both the Redeveloper and the Agency have combined in their review and approval of same.

{REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK}

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be properly executed and their corporate seals affixed and attested as of the date first written above.

WOODBIDGE REDEVELOPMENT AGENCY

By: 
Caroline Ehrlich
Executive Director

CPV SHORE, LLC

By: 
Name: Peter J. Podargiel
Title: Senior Vice President

EXHIBIT A

THE PROPERTY

DESCRIPTION OF PROPOSED LOT 100.02, BLOCK 93

**Being a portion of Lot 100, Block 93, and Lot 3, Block 62, N/F EPEC Polymers, Inc.
Township of Woodbridge, Middlesex County, New Jersey**

All that certain tract or parcel of land located in the Township of Woodbridge, County of Middlesex, New Jersey, bounded and described as follows:

Commencing at a point, said point being the intersection of the northeasterly line of Lot 10.01, Block 95, with the southeasterly right-of-way line of the Raritan Branch of the Lehigh Valley Railroad, N/F Conrail, Lot 10, Block 70.01, said point being witnessed by an iron pipe found; thence, Along said southeasterly right-of-way line, North $65^{\circ} 14' 22''$ East, a distance of 1,132.33 feet to the point of beginning for the herein described lands, and from said beginning point and in the North American Datum of 1983, U.S. Survey Foot, New Jersey State Plane Coordinate bearing system, running, thence:

- 1) Continuing along said southeasterly right-of-way line, North $65^{\circ} 14' 22''$ East, a distance of 346.17 feet to a point, thence
- 2) Through Lot 100, Block 93, and continuing through Lot 3, Block 62, South $47^{\circ} 13' 46''$ East, a distance of 587.01 feet to a point, thence
- 3) Through Lot 3, Block 62, and continuing through Lot 100, Block 93, South $09^{\circ} 59' 10''$ East a distance of 823.19 feet to a point, thence

Through Lot 100, Block 93, the following nine (9) courses:

- 4) South $41^{\circ} 50' 54''$ East a distance of 134.03 feet to a point, thence
- 5) South $65^{\circ} 00' 00''$ West a distance of 599.97 feet to a point, thence
- 6) Along a non-tangent curve, in a general northwesterly direction along the arc of a curve to the left having a radius of 170.00 feet and an arc length of 154.37 feet, chord bearing and distance of North $55^{\circ} 08' 02''$ West 149.12 feet, to a point of tangency, thence
- 7) North $81^{\circ} 08' 51''$ West a distance of 83.04 feet to a point of curvature, thence
- 8) In a general westerly direction along the arc of a curve to the left having a radius of 350.00 feet and an arc length of 148.72 feet, chord bearing and distance of South $86^{\circ} 40' 47''$ West 147.60 feet, to a point of tangency, thence
- 9) South $74^{\circ} 30' 26''$ West a distance of 104.36 feet to a point, thence

10) North 15° 29' 34" West a distance of 699.72 feet to a point, thence

11) North 30° 50' 19" East a distance of 421.33 feet to a point, thence

12) North 01° 51' 53" West a distance of 320.26 feet to the point and place of beginning.

Said description of Proposed Lot 100.02, Block 93, Township of Woodbridge, containing 1,196,205 Square Feet or 27.461 Acres, more or less. Excluding that portion of the described lands currently claimed by the State of New Jersey as "lands N/F Below Mean High Water".

The above description was written pursuant to a map entitled "Proposed Minor Subdivision Sketch Through Lots 2 & 3, Block 62, & Lot 100, Block 93, N/F Epec Polymers Inc., Prepared for CPV Shore Inc., Situated in the Township of Woodbridge, Middlesex County, New Jersey", prepared by CME Associates, dated November 01, 2012.

EXHIBIT B

PROJECT DESCRIPTION

A natural gas fired, approximately 700 MW (with capacity to be expanded to up to approximately 1,400 MW) electric generating plant and related improvements.

EXHIBIT C

FORM OF CERTIFICATE OF COMPLETION

Record and Return to:
Glenn S. Pantel
Drinker Biddle & Reath LLP
500 Campus Drive
Florham Park, New Jersey 07932

CERTIFICATE OF COMPLETION

Pursuant to Section 4.04 of the Redevelopment Agreement by and between the Woodbridge Redevelopment Agency (the "Agency") and CPV Shore, LLC (the "Redeveloper"), dated as of [_____, 2011], (the "Redevelopment Agreement"), the undersigned, as of the date hereof, certifies that (all undefined terms used herein shall have the same meaning ascribed to them in the Redevelopment Agreement):

(i) the Project in its entirety has been completed as of [_____] in accordance with the Redevelopment Agreement and in compliance with Applicable Laws so that the Facility in its entirety may, in all material respects, be used and operated under the applicable provisions of the Redevelopment Agreement;

(ii) all permits, licenses and approvals that are required in order for the Redeveloper to Complete the Project or such other work or action to which such term is applied are, to the extent so required, in full force and effect;

(iii) such Completion has been further evidenced by a written certificate of the Redeveloper and a certificate of the Redeveloper's engineer evidencing completion of the Facility, which certificates are attached hereto as **Exhibit 1**:

(iv) the Facility is being operated in accordance with the terms and provisions of the Redevelopment Agreement, the Redevelopment Plan and Applicable Laws; and

(v) a copy of any Certificate of Occupancy issued with respect to any portion or portions of the Facility for which a Certificate of Occupancy is required is attached hereto as **Exhibit 2**.

The conditions determined to exist at the time the Redevelopment Area was determined to be an area in need of redevelopment no longer exist with respect to the Property. The Property shall no longer be subject to (i) any covenant running with the land covered by this Certificate of Completion for the benefit of the Agency, and (ii) eminent domain for purposes of redevelopment as a result of those determinations. Notwithstanding the foregoing, the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be an area in need of redevelopment shall remain in effect with respect to any portion of the Property that may be utilized for development of the Phase Two Facility, provided, however, that the Agency shall not exercise its power of eminent domain to condemn any such portion of the

Property.

The Declaration recorded in the office of the Middlesex County clerk on [] in deed book [], page [] is hereby discharged of record and is void and of no further force and effect.

This certificate is given without prejudice to any rights against third parties which exist on the date hereof or which may subsequently come into being.

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Completion of Project to be executed as of the [] day of [].

WITNESS OR ATTEST:

**WOODBIDGE REDEVELOPMENT
AGENCY**

By: _____

By: _____
Caroline Ehrlich,
Executive Director

Acknowledgment

STATE OF NEW JERSEY :

:SS

COUNTY OF MIDDLESEX :

On this [] day of [] before me, personally appeared Caroline Ehrlich, the Executive Director of the Woodbridge Redevelopment Agency, a public body corporate and politic organized and existing under and by virtue of the laws of the State of New Jersey , who I am satisfied is the person who executed the foregoing instrument; and she acknowledged that she executed the foregoing instrument as the act of the corporation and that she was authorized to execute the foregoing instrument on behalf of the corporation.

Exhibit 1

REDEVELOPER'S CERTIFICATE

Pursuant to Section 4.04 of the Redevelopment Agreement by and between the Woodbridge Redevelopment Agency (the "Agency") and CPV SHORE, LLC (the "Redeveloper"), dated as of [_____, 2011], (the "Redevelopment Agreement"), the Redeveloper certifies as follows (capitalized terms used herein and not otherwise defined shall have the same meanings ascribed to them in the Redevelopment Agreement):

(i) the Project in its entirety has been completed as of [_____, in accordance with the Township of Woodbridge building and construction code, the Redevelopment Agreement, the Redevelopment Plan and in compliance with Applicable Laws so that the Facility in its entirety may, in all material respects, be used and operated under the applicable provisions of the Redevelopment Agreement;

(ii) all permits, licenses and approvals that are required in order for Redeveloper to Complete the Project or such other work or action to which such term is applied are, to the extent so required, in full force and effect;

(iii) Redeveloper has performed or has caused to be performed all of its duties and obligations under the Redevelopment Agreement with respect to the Project;

(iv) attached hereto is a certificate of [_____, Redeveloper's engineer, evidencing completion and certification of the Facility; and

(v) the Facility is being operated in accordance with the terms and provisions of the Redevelopment Agreement, the Redevelopment Plan and Applicable Laws.

CPV SHORE, LLC

By: _____

Name:

Title:

Exhibit 2

CERTIFICATE OF OCCUPANCY

EXHIBIT D

DECLARATION OF COVENANTS AND RESTRICTIONS

Prepared by and record and return to:

Andy S. Norin
Drinker Biddle & Reath LLP
500 Campus Drive
Florham Park, NJ 07932

This **DECLARATION OF COVENANTS AND RESTRICTIONS** (this "Declaration") is made this ____ day of ___, 20____, by [CPV SHORE URBAN RENEWAL LLC], a Delaware limited liability company having an address c/o Competitive Power Ventures, Inc., 8403 Colesville Road, Suite 915, Silver Spring, Maryland 20910 ("Declarant").

WITNESSETH:

WHEREAS, Declarant is party to that certain Redevelopment Agreement, dated February ____, 2013, by and between Declarant and Woodbridge Redevelopment Agency (the "Redevelopment Agreement") with respect to certain real property owned by Declarant located in the Township of Woodbridge, County of Middlesex, State of New Jersey, designated as Block [____], Lot [____] on the official Tax Map of the Township of Woodbridge, and more particularly described on **Exhibit A** annexed hereto (the "Property"); and

WHEREAS, capitalized terms used herein, but not defined herein shall have the meanings ascribed to such terms in the Redevelopment Agreement; and

WHEREAS, as contemplated by the Redevelopment Agreement, on the date hereof, Declarant has acquired the Property; and

WHEREAS, pursuant to the Redevelopment Agreement, Declarant is required to record this Declaration promptly upon Redeveloper's acquisition of the Property.

NOW, THEREFORE, intending to be legally bound, Declarant hereby declares that Declarant's Property shall be held, sold and conveyed subject to the terms of the Redevelopment Agreement, including the following covenants and restrictions, which shall run with title to the Property and be binding upon all parties who have any right, title or interest in Declarant's Property, or any part thereof, their heirs, executors, administrators, successors and assigns.

1. General Covenants and Restrictions. Subject to the terms of the Redevelopment Agreement, the Redeveloper and the Property shall be subject to the covenants and restrictions contained in Section 3.01 of the Redevelopment Agreement.

2. Environmental Covenants. Subject to the terms of the Redevelopment Agreement, the Redeveloper and the Property shall be subject to the environmental covenants contained in Section 6.03 of the Redevelopment Agreement.

3. Restriction on Transfers. Subject to the terms of the Redevelopment Agreement, Redeveloper shall not effectuate a Transfer in violation of Article 9 of the Redevelopment Agreement.

4. Remedies. If there is a Redeveloper Event of Default under the Redevelopment Agreement, the Agency shall have the right to exercise all remedies provided to the Agency in the Redevelopment Agreement, including, without limitation, the remedies set forth in Section 11.02(b).

5. Termination. It is further intended and agreed that the covenants and restrictions set forth herein shall remain in effect only until the issuance by the Agency of a Certificate of Completion for the Property, as provided for in Section 4.04(e) of the Redevelopment Agreement at which time the covenants and restrictions and all terms, conditions and obligations, set forth in the Redevelopment Agreement shall cease and terminate with respect to the Property. Upon issuance of a Certificate of Completion for the Property, the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall be deemed to no longer exist with respect to the Property and the conditions and requirements of *N.J.S.A. 40A:12A-9* shall be deemed to have been satisfied with respect to the Property. Notwithstanding the foregoing, or any of the terms of the Redevelopment Agreement, the conditions that were found and determined to exist at the time the Redevelopment Area was determined to be in need of redevelopment shall remain in effect with respect to any portion of the Property that may be utilized for development of the Phase Two Facility, provided, however, that the Agency shall not exercise its power of eminent domain to condemn any such portion of the Property.

6. Redevelopment Agreement Controls. In the event of any inconsistency between the terms of the Redevelopment Agreement and the terms of this Declaration, the terms of the Redevelopment Agreement shall control.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed the day and year first above written.

[CPV SHORE URBAN RENEWAL LLC]

By: _____
Name:
Title:

ACKNOWLEDGEMENT

STATE OF)
)
COUNTY OF) SS.:

Be it remembered that on the _____, day of _____, 20____,
_____ personally appeared before me, and this person acknowledged under
oath, to my satisfaction that:

(a) he is the _____ of [CPV SHORE URBAN RENEWAL], the
Declarant in the attached Declaration;

(b) he is authorized to execute the attached Declaration on behalf of the Declarant;

(c) he executed the attached Declaration on behalf of and as the act of the Declarant;
and

(d) the attached Declaration was signed and made by the Declarant as its duly
authorized and voluntary act.

EXHIBIT E

PROJECT SCHEDULE

1	The Redeveloper commences commercially reasonable efforts to obtain the Governmental Approvals	Not later than the Approvals Start Date
2	Redeveloper acquires the Property from EPEC	Not later than the Financial Closing Date
3	Redeveloper obtains all Governmental Approvals required to start site work	Not later than the Financial Closing Date
4	Redeveloper closes on financing (i.e. the Financial Closing Date)	Not later than the Financial Closing Outside Date
5	Start site work	Not later than December 1, 2013*
6	Commencement of Construction	Not later than January 1, 2014*
7	Completion of Construction	Not later than December 31, 2015*

* Without limitation of Redeveloper's rights under the Agreement, these dates shall be subject to extension as may be reasonably required, such as extensions due to (a) litigation, including appeals; (b) delays in obtaining (i) any approval or agreement from PJM, or (ii) agreements necessary to construct or operate the Project (such as natural gas procurement contracts and electric interconnection agreements); and (c) the procurement of easements.

EXHIBIT F**ANTICIPATED GOVERNMENTAL APPROVALS**

ON-SITE PROJECT DEVELOPMENT	
Agency	Potentially Needed Licenses/Permits/Approvals
New Jersey Department of Environmental Protection ("NJDEP") Division of Land Use Regulation Program	Freshwater Wetlands Permit & Transition Area Authorization
	Upland Waterfront Development Permit
	Water Quality Certification
	Tidelands Instrument
	Flood Hazard Area Control Act Permit
	Coastal Wetlands Permit
	Fresh Water Wetlands Letter of Interpretation
NJDEP Division of Air Quality	PSD / Title V Operating Air Permit & Acid Rain Permit
NJDEP Bureau of Nonpoint Pollution Control	NJPDES Request for Authorization ("RFA") for Construction Stormwater Discharge
NJ Natural Heritage Program	Division of Parks & Forestry Consultation
NJ State Historic Preservation Office	Section 106 Cultural & Historic Resources Review & Consultation
NJDEP Bureau of Financing & Construction Permits	Treatment Works Approval for sewer line connections & oil/water separators

ON-SITE PROJECT DEVELOPMENT	
Agency	Potentially Needed Licenses/Permits/Approvals
NJDEP Bureau of Water System & Well Permitting	Physical Connection Permit (backflow preventer(s))
NJDEP Division of Water Supply and Geoscience	Simplified Water Main Extension Permit
	Dewatering Permit
NJDEP Division of Water Quality	Water Quality Management Plan Consistency Determination
NJDEP Division of Fish & Wildlife	Threatened & Endangered Species Consultation
NJDEP Site Remediation Program	Soil Remediation Action Permit
NJDEP Solid & Hazardous Waste Program	Landfill Disturbance Permit
Federal Energy Regulatory Commission	Exempt Wholesale Generator Certification
Federal Energy Regulatory Commission	Fuel Use Certification
Federal Aviation Administration	Determination of No Hazard to Air Navigation - Stack Heights
	Determination of No Hazard to Air Navigation - Construction Cranes

ON-SITE PROJECT DEVELOPMENT	
Agency	Potentially Needed Licenses/Permits/Approvals
National Oceanic & Atmospheric Administration	National Marine Fisheries Service Consultation
U.S. Fish & Wildlife Service	Consultation
U.S. Army Corps of Engineers	Jurisdictional Determination
	Nationwide Permit Authorization
Middlesex County Utilities Authority	Waste Water Discharge Authorization
	Operating Agreement
	Design Build Agreement
	Raritan River Tunnel Access Authorization
Freehold Soil Conservation District	Soil Erosion & Sediment Control Plan Certification
Middlesex County Planning Board	Subdivision & Site Plan Approval
Middlesex County Road Department	Road Opening Permit
Woodbridge Township Planning Board	Subdivision & Site Plan Approval
Conrail	License for Rail Grade Crossing (Facility Driveways)

ON-SITE PROJECT DEVELOPMENT	
Agency	Potentially Needed Licenses/Permits/Approvals
NJ Department of Community Affairs ("NJDC A")	Partial and / or Full Construction Plan Review and Release
Woodbridge Township	Construction Permits issued upon NJDC A Plan Release and Direction

OFF-SITE PROJECT DEVELOPMENT	
Agency	Potentially Needed Licenses/Permits/Approvals
NJDEP Division of Land Use Regulation Program	Fresh Water Wetlands Permit & Transition Area Authorization
	Upland Waterfront Development Permit
	Water Quality Certification
	Tidelands License for Utility Crossing
	Flood Hazard Area Control Act Permit
	Coastal Wetlands Permit
	Fresh Water Wetlands Letter of Interpretation
NJDEP Bureau of Nonpoint Pollution Control	NJDES RFA for Construction Storm Water Discharge
NJ Natural Heritage Program	Division of Parks & Forestry Consultation
NJ State Historic Preservation Office	Section 106 Cultural & Historic Resources Review & Consultation

OFF-SITE PROJECT DEVELOPMENT	
Agency	Potentially Needed Licenses/Permits/Approvals
NJDEP Division of Water Quality	Treatment Works Approval
	Water Quality Management Plan Consistency Determination
NJDEP Solid & Hazardous Waste Program	Landfill Disturbance Permit
Federal Aviation Administration	Determination of No Hazard to Air Navigation - Construction Cranes
	Determination of No Hazard to Air Navigation - Overhead Transmission Line Support Poles
U.S. Fish & Wildlife Service	Consultation
National Oceanic & Atmospheric Administration	National Marine Fisheries Service Consultation
US Army Corps of Engineers	Nationwide Permit Authorization & Wetlands Delineation Verification
Freehold Soil Conservation District	Soil Erosion & Sediment Control Plan Certification
Middlesex County Planning Board	Site Plan Approval
Township of Edison Zoning Board of Adjustment	Use Variance & Waiver of Site Plan Review Approval

OFF-SITE PROJECT DEVELOPMENT	
Agency	Potentially Needed Licenses/Permits/Approvals
Borough of Sayreville Planning Board	Conditional Use Approval & Waiver of Site Plan Review Approval
Conrail	License for Pipeline Occupancy
	License for Overhead Line Occupancy
NJ Department of Community Affairs	Partial and / or Full Construction Plan Review and Release

EXHIBIT G

FORM OF PROGRESS REPORT
[CPV SHORE, LLC LETTERHEAD]

[DATE]

Woodbridge Redevelopment Agency
1 Main Street
Woodbridge, New Jersey 07095
Attn: William W. Northgrave, General Counsel

**Re: Redevelopment Agreement dated [_____, 2011] (“Agreement”),
between Woodbridge Redevelopment Agency (“Agency”) and CPV SHORE, LLC
(the “Redeveloper”) – Progress Report**

Section 1 - Executive Summary Narrative

Section 2 - Schedule

Section 3 – Status of Governmental Approvals

Section 4 - Progress Photos (during construction)

Sincerely,
CPV SHORE, LLC

By: _____
Name:
Title:

EXHIBIT H

REDEVELOPER OWNERSHIP

- CPV Shore, LLC is a wholly owned subsidiary of CPV Power Development, Inc.
- CPV Power Development, Inc. is a wholly owned subsidiary of Competitive Power Ventures Holdings, LLC.
- Warburg Pincus Private Equity IX, L.P. is the only entity that owns greater than a 10% interest in Competitive Power Ventures Holdings, LLC.