

SOLAR PROGRAM LOAN AGREEMENT

THIS SOLAR PROGRAM LOAN AGREEMENT (“Agreement”), dated as of _____, 200_, is made and entered into by and between Public Service Electric and Gas Company, a New Jersey corporation (“Lender”), having its general offices at 80 Park Plaza, Newark, New Jersey 07102, and _____, a _____ (“Borrower”), having its principal place of business at _____, New Jersey _____. From time to time throughout this Agreement, each of Borrower and Lender is referred to as, individually, a “Party” and together, collectively, as the “Parties.”

RECITALS

- A. The State of New Jersey’s Renewable Portfolio Standard (“RPS”) mandates that electricity suppliers provide a percentage of their electricity sales from solar generation. To facilitate said mandate, the New Jersey Board of Public Utilities (the “BPU”), through its Office of Clean Energy, established the use and trading of Solar Renewable Electricity Certificates (“SRECs”) by means of the New Jersey Clean Energy Program’s Website: www.njcep.com/srec (such website being referred to as the “SREC Program Administrator”). These SRECs, once created, represent solar energy actually generated and used, and are bundled in minimum denominations of one megawatt hour of electricity production. The New Jersey Clean Energy Program (“NJCEP”) allows for SRECs to be created, verified, tracked, sold to, and eventually retired by, electricity suppliers to meet their RPS solar requirement. All electricity suppliers are required to use SRECs under the NJCEP to demonstrate compliance with this part of the State’s RPS.
- B. In order to reduce electricity supply costs to its ratepayers and assist the State in achieving its environmental objectives under the New Jersey RPS and New Jersey’s Energy Master Plan, Lender has developed a solar loan program (the “Program”) pursuant to which Lender will provide financing to developers of solar projects and to electric distribution customers who develop solar-powered generation projects at facilities that are located within Lender’s electric distribution service territory and satisfy the eligibility and the Program requirements set forth in the Program Application. Lender’s Solar Program was approved by the BPU by its Order in Docket No. E0-07040278 (the “2008 Order”).
- C. Borrower has applied to Lender for assistance in financing a solar generation project. A copy of Borrower’s completed Program Application is attached hereto as Exhibit E, and made a part hereof.
- D. Borrower either (i) has identified a solar photovoltaic system developer (the “Equipment Provider”) and has entered, or is about to enter, into an agreement with the Equipment Provider, for purposes of developing, designing, procuring, and installing a solar-powered generation system (the “Project”) at the facility owned or operated by Borrower, or (ii) is an Equipment Provider and has entered, or is about to enter, into an agreement with a person or entity owning or operating a facility giving to the Equipment Provider the right to install and operate the Project at a facility (in either case, the “Facility”). The Facility is located at _____, New Jersey, which is the location designated in Borrower’s Program application as approved by Lender.

- E. Upon completion of the Project, and satisfaction of the terms and conditions of this Agreement, Borrower, in order to facilitate the payment of a portion of the costs of the completed Project, has asked Lender to provide financing to repay a portion of the Project costs incurred by Borrower.
- F. Lender is willing to provide Borrower with, and Borrower accepts such financing, in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the promises and the mutual covenants and agreements hereinafter set forth, the Parties hereto agree as follows:

1. Definitions. As used herein, unless the context clearly requires otherwise, the following terms shall have the following corresponding meanings:

“2008 Order” has the meaning ascribed to such term in the Recitals.

“Actual Loan Balance” means the then-current unpaid principal and unpaid accrued interest under the Loan.

“Agreement” has the meaning ascribed to such term in the Recitals.

“Annual True-Up” has the meaning set forth in Section 2.5(b)(vii).

“Biennial True-Up” has the meaning set forth in Section 2.5(b)(viii).

“Borrower” has the meaning ascribed to such term in the Recitals.

“BPU” has the meaning ascribed to such term in the Recitals.

“Business Day” means any day other than a Saturday, a Sunday or any other day on which commercial banks in the City of Newark, State of New Jersey are required or permitted by law to close.

“Collateral” means: (a) the SRECs arising throughout the term of this Agreement by means of Borrower’s continued and ongoing operation of the Project, and all related rights to said SRECs, including, without limitation, any other Environmental Attributes arising from and/or out of the Project; (b) the Project Equipment; (c) the Project Documents; (d) any other assets or property in which Lender is granted a security interest, lien or pledge as security for the Obligations; and (e) all accessions, additions, substitutions, products and Proceeds to and of the foregoing.

“Commercial Operation” means that point achieved when the Project begins generating electricity for usage at the Facility, and the Project meets all technical, financial and performance requirements associated with its intended use and pursuant to the performance specified in the Program Application and the Project Documents.

“Contract Price” has the meaning ascribed to such term in Section 2.7.

“Contract Year” means: (a) in the event execution of this Agreement occurs on the first day of a calendar month, the twelve-month period commencing on the date of execution of this Agreement and ending on the last day of the twelfth month thereafter; or (b) in the event execution of this Agreement occurs on a day other than the first day of a calendar month, the twelve-month period commencing on the first day of the month following execution of this Agreement and ending on the last day of the twelfth month thereafter, provided that in such event the first Contract Year of this Agreement shall be a period in excess of twelve months as such first Contract Year shall commence on the date of execution of this Agreement rather than the first day of the next succeeding month. By way of example, if this Agreement were to be executed on April 7, 2008, the first Contract Year would commence on April 7, 2008 and conclude on April 30, 2009, and the second Contract Year would commence on May 1, 2009 and conclude on April 30, 2010, continuing thereafter accordingly.

“Customer” means: (a) Borrower; or (b) the Person other than Borrower receiving the benefit of the electricity generated by the Project at the final completion thereof.

“Customer Agreement” means the agreement between Borrower and Customer for the procurement, engineering, installation and operation of the Project, including any sale of electric energy therefrom.

“Delivery Period” has the meaning ascribed to such term in Section 2.7(c).

“Equipment” or “Project Equipment” means all of Borrower’s now owned and hereafter acquired rights, title, and interests in and to any and all solar panels and Project-related equipment, machinery, components, wiring, meters, replacement parts and consumables comprising the Project.

“Equipment Provider” has the meaning ascribed to such term in the Recitals.

“Events of Default” has the meanings ascribed to such term in Section 11.1.

“Environmental Attribute” has the meaning ascribed to such term in Section 6.

“Facility” has the meaning ascribed to such term in the Recitals.

“Floor Price” means the minimum price of an SREC used to discharge the payment obligations of Borrower as to the Loan, and is the lowest price credited to Borrower for purposes of repaying the Loan and accrued interest. The Floor Price for an SREC for purposes of this Agreement is \$475.00.

“kW” means kilowatts.

“Lender” has the meaning ascribed to such term in the Recitals.

“Lender’s Call Option” has the meaning ascribed to such term in Section 2.7.

“Liens” means any and all mortgages, liens, charges, security interests and/or encumbrances of any kind, or pledges or deposits of any nature.

“Loan” has the meaning ascribed to such term in Section 2.1.

“Loan Documents” means this Agreement, the Note, the Security Agreement and such other documents, instruments and certificates delivered in connection with one or more of the foregoing.

“Loan Amortization Schedule” means the schedule set forth as Exhibit F attached hereto.

“Market Value” for purposes of determining (i) the value of SRECs at the time of their use to repay the outstanding balance of the Loan and accrued interest, and (ii) the Contract Price for SRECs under Lender’s Call Option, means the average cumulative weighted price of SRECs as published on the NJCEP website (or any successor website performing a similar function) during the calendar month preceding the month of repayment of the outstanding balance of the Loan and accrued interest. In the absence of the above, the Market Value will be defined as the average of three (3) independent broker quotes.

“MW” means megawatts.

“MW-hour” means megawatt-hours.

“NJCEP” means the BPU’s New Jersey Clean Energy Program, or any successor program thereto.

“Note” has the meaning ascribed to such term in Section 2.2.

“Obligations” means any and all obligations, liabilities, covenants and agreements of Borrower under the Loan Documents, and any and all costs and expenses of, or incurred by, Lender in collecting any of the foregoing and in enforcing the provisions of this Agreement, including, without limitation, all court costs and/or reasonable attorneys’ fees and expenses in any action between Lender and Borrower and/or Lender and any third party based on the Loan Documents.

“Permitted Encumbrances” means: (a) Liens expressly disclosed by Borrower to Lender as set forth on Exhibit G attached hereto and approved by Lender in writing; (b) Liens securing taxes, assessments and/or governmental charges and/or levies or the claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons, the payment of which is not currently due and payable; and (c) Liens in favor of Lender.

“Person” means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity, party or government (whether national, federal, state, county, city, municipal,

or otherwise), including, without limitation, any instrumentality, division, agency, body or department thereof.

“Proceeds” means any and all consideration received from the sale, exchange, collection or other disposition of any asset or property that constitutes Collateral, any value received as a consequence of the possession of any Collateral, any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any asset or property which constitutes Collateral, and shall include all cash and negotiable instruments received or held on behalf of Lender relating to the payment of accounts and any and all property of whatever nature received and/or held by Borrower or on behalf of Lender.

“Project” has the meaning ascribed to such term in the Recitals.

“Project Documents” means: (a) a fully executed Customer Agreement; (b) lien waivers executed by the Equipment Provider and each of its subcontractors on the Project; (c) lien waivers and subordination agreements executed by Borrower’s other lienholders, mortgagees and landlord, if applicable; (d) Project specifications, maintenance agreements and other technical information regarding the Project; (e) any and all applicable permits, licenses, easements, variances and other authorizations; (f) Program Application documents, project plans and pro formas, and other Program-related documents; and (g) any and all other appropriate documents as may be requested by Lender.

“Quarter” or “Quarterly” means a quarterly period measured based on Contract Years.

“Quarterly Amortization Statement” has the meaning set forth in Section 2.5(a).

“RPS” has the meaning ascribed to such term in the Recitals.

“Scheduled Loan Balance” has the meaning set forth in Section 2.5(b)(viii).

“Security Agreement” means that certain Security Agreement, dated concurrently herewith, setting forth the terms, conditions, obligations and rights of the Parties as to the Collateral.

“SRECs” has the meaning ascribed to such term in the Recitals.

“SREC Account” has the meaning ascribed to such term in Section 2.5(b).

“SREC Program Administrator” has the meaning set forth for that term in the Recitals, or any successor to the SREC Program Administrator recognized by the State of New Jersey.

“Term” has the meaning ascribed to such term in Section 2.4.

“Transaction Confirmation Letter” has the meaning ascribed to such term in Section 2.7(b).

2. Loan; General Terms:

2.1. Loan Agreement. Subject to the terms and conditions of this Agreement, and the satisfaction of all requirements set forth in this Agreement, Lender agrees to make available to Borrower for the sole purpose of reimbursing a portion of the costs incurred in engineering, procuring, installing and constructing the Project, and Borrower accepts for such sole purpose under the terms of this Agreement, the amount of _____ AND 00/100 DOLLARS (\$ _____), which amount is hereafter referred to as the “Loan.”

2.2. Promissory Note. The Loan shall be evidenced by a secured promissory note, to be made by Borrower and delivered to Lender (the “Note”), which Note will be substantially in the form as that attached hereto as Exhibit A.

2.3. Interest Rate. The Loan shall bear interest at the rate of **eleven and eleven-one-hundredths percent (11.11%)** per year, the amount of such interest shall be calculated on the basis of the actual number of days elapsed over a 360-day year. Regardless of whether paid in cash or SRECs as provided hereunder, without limiting any of Lender’s rights hereunder, to the extent that the interest component of any periodic payment is not paid on the payment due date indicated on the Loan Amortization Schedule, the unpaid portion of such interest component shall bear interest at the rate specified in the preceding sentence. To the extent this occurs, the effective rate of interest will be higher than the stated rate of 11.11%.

2.4. Term. This Agreement shall have a term of fifteen (15) years from the date on which Lender advances the Loan to Borrower (the “Term”). Subject to Lender’s Call Option as provided for in Section 2.7, Borrower may prepay the Loan prior to the end of said fifteen (15) year Term in accordance with the provisions of Section 2.6; provided, however, that Lender’s Call Option set forth in Section 2.7 shall survive the payment or prepayment of the Loan and shall continue in effect for the entirety of the Term.

2.5. Repayment of Loan; Payment in SRECs.

(a) The full amount of the Loan, and all interest due thereon, is payable in periodic installments as set forth in the Note. All amounts due under this Agreement and the Note are due and payable in cash and/or the comparable value of the quantity of SRECs created by operation of the Project and held by Borrower in its SREC Account at the time said SRECs are used by Borrower to pay down the outstanding amount of the Loan and accrued interest thereon. Following each Quarter, Lender will provide an amortization statement to Borrower showing the amount paid by Borrower in cash and SRECs, the amount due on the Loan and the cumulative difference (“Quarterly Amortization Statement”).

(b) The Borrower may use the SRECs created by the Project to pay the Loan and accrued interest to Lender if the following conditions are met:

- (i) Borrower has established and maintains an electronic account with the NJCEP to use the SREC Program Administrator for the sale and trade of SRECs (the "SREC Account"), and Borrower provides Lender with access to such SREC Account;
- (ii) Borrower shall be responsible for ensuring that all SRECs generated by the Project each month during the Term are credited to the SREC Account in a timely manner;
- (iii) Borrower must apply all SRECs in its SREC Account at the time of its use of SRECs for repayment purposes towards the repayment of the Loan;
- (iv) Borrower must use the SREC Program Administrator and its SREC Account to transfer SRECs to Lender's account and Borrower shall have executed such documents as Lender may require in connection therewith;
- (v) The value of the quantity of SRECs created by operation of the Project for purposes of repaying the Loan and accrued interest (except in the event of prepayment pursuant to Section 2.6 hereof) shall be determined at the time of such repayment and shall be the Floor Price or the Market Value, whichever is greater;
- (vi) In the event that the value of the quantity of SRECs created by the operation of the Project (or cash payments) being applied to repay the Loan exceeds the amount due from Borrower to satisfy its periodic obligations under this Agreement and the Note for such period, Lender will apply such excess amount to the Actual Loan Balance. The application of such excess shall not effect the periodic payments as indicated in the Loan Amortization Schedule except that upon all amounts due with respect to the Loan being paid in full, no further periodic payments thereunder shall be required;
- (vii) Annual True-Up. The Lender will perform a true-up at the end of every Contract Year (the "Annual True-Up"). The Lender will calculate (a) the aggregate value of the SRECs and cash (excluding any Annual True-Up or Biennial True-Up payments made that Contract Year) received from Borrower to pay the Loan for the Contract Year ("Actual Payments"), and (b) ninety percent (90%) of the total payments due with respect to the Loan for the Contract Year as indicated in the Loan Amortization Schedule (the "90% Amount"). Within sixty (60) days from receipt of notice from the Lender, Borrower will pay Lender in cash an amount equal to the positive difference, if any, between (x) the 90% Amount *minus* (y) the Actual Payments, and such amount will be applied to the Actual Loan Balance; and
- (viii) Biennial True-Up. In addition to performing the Annual True-Up for each Contract Year, the Lender will also perform a biennial true-up, the first to take place at the end of the second Contract Year and then every two Contract Years

thereafter (the “Biennial True-Up”). The Lender will (a) calculate the Actual Loan Balance at the end of the second Contract Year (after giving effect to any payment required under the Annual True-Up for the current Contract Year) and (b) using the Loan Amortization Schedule, determine the scheduled Loan balance (“Scheduled Loan Balance”) for the corresponding period. Within sixty (60) days from receipt of notice from the Lender, the Borrower will pay in cash to Lender an amount equal to the positive difference, if any, between (x) the Actual Loan Balance *minus* (y) the Scheduled Loan Balance, and such amount will be applied to the Actual Loan Balance.

(c) All payments with respect to the Loan (whether in cash and/or the value of SRECs generated by the operation of the Project) will be first applied to the payment of accrued interest, then to the repayment of the principal amount of the Loan.

(d) By no later than thirty (30) days following the expiration of the Term, Borrower will pay to Lender all outstanding amounts of accrued interest and principal of the Loan, including, without limitation, all amounts representing the difference between the full amount of all installments of the Loan and accrued interest due and the amounts actually paid and received by Lender.

2.6 Prepayment of Loan. Subject to Lender’s Call Option set forth in Subsection 2.7(a), Borrower may pay all or a portion of the outstanding amount of the Loan and accrued interest thereon at any time prior to the end of the Term by paying to Lender cash and/or SRECs, which SRECs are to be valued at Market Value, which prepayment will be applied to the Actual Loan Balance.

2.7. Lender’s Call Option. Borrower hereby grants to Lender an option, exercisable at Lender’s discretion, to purchase all SRECs created by the continued operation of the Project during the Term (“Lender’s Call Option”). Lender shall have the right to exercise the Lender’s Call Option, as described herein, in the event Borrower repays to Lender the full amount of the Loan and accrued interest prior to the end of the Term, irrespective of whether such repayment results from Borrower’s voluntary prepayment in cash or SRECs, from acceleration of the Loan by Lender upon an Event of Default, or otherwise.

(a) Lender’s Call Option. In the event that the Loan is repaid prior to the expiration of the Term for any reason, Lender shall have an option to purchase, pursuant to the terms of this Section 2.7, up to 100% of SRECs produced by the Project during the balance of the Term (“Maximum Contract Quantity”). Lender’s Call Option shall remain in effect until such time as the Term expires, and may be exercised by Lender or its assigns. As an option, Lender has the right, but not the obligation (unless exercised), to purchase all or a portion (at Lender’s election) of the SRECs produced by the Project during the balance of the Term.

(b) Exercise Date. Notification by Lender of its intent to exercise Lender’s Call Option must be provided by Lender by notifying Borrower via telephone ((____) ____-____) prior to 10:00 AM (Eastern Prevailing Time) on 25th of the month prior to the commencement of a Delivery Period, or on the next succeeding Business Day if the 25th of such month does not fall

on a Business Day. In the event that the Parties are unable to communicate with each other by telephone, a facsimile transmission by Lender to Borrower to Borrower's facsimile machine ((____) ____-____) prior to 11:00 AM (Eastern Prevailing Time) on 25th of the month prior to the commencement of a Delivery Period, or on the next succeeding Business Day if the 25th of such month does not fall on a Business Day shall constitute sufficient notice for purposes hereof. In such oral notice, Lender will specify: (a) the Contract Quantity of SRECs that Lender has elected to purchase up to the Maximum Contract Quantity; (b) the Contract Price as determined in accordance with Subsection 2.7(d) below; and (c) the Delivery Period. Each such exercise shall be memorialized in a written Transaction Confirmation Letter, substantially in the form contained in Exhibit B, and shall be governed by the terms as set forth on Exhibit B, which terms are deemed accepted by Lender and Borrower upon execution of this Agreement and which terms apply to Lender's Call Option at all times during the Term, and any exercise of Lender's Call Option. Each Transaction Confirmation Letter shall be effective upon delivery by Buyer to Seller unless Seller provides Buyer with written notice that the Transaction Confirmation Letter is inconsistent with any verbal notification of Lender's intent to exercise Lender's Call Option. To be effective, such contesting notice must be delivered to Buyer within three (3) Business Days of Seller's receipt of the Transaction Confirmation Letter.

(c) Delivery Period. Each Delivery Period shall commence on the first day of the Quarter following Lender's verbal notice of its intent to exercise Lender's Call Option and end on the last day of the third month of the Quarter following commencement of the Delivery Period. Multiple Delivery Periods are permissible; provided that only one Delivery Period may be exercised at a time.

(d) Contract Price. The contract price ("Contract Price") to be paid by Lender for SRECs delivered by Borrower during a Delivery Period shall be the amount equal to the product of 0.75 multiplied by Market Value, based on Market Value at the time Lender's Call Option was exercised with respect to such Delivery Period.

(e) Survival of Lender's Call Option. It is the intention of the Parties that Lender's Call Option remain in effect for the entirety of the Term notwithstanding any sale by Borrower of either the Project Equipment (alone or in connection with a sale of the Facility) or a change in the location of the Project Equipment. This is irrespective of any right that Borrower may have to dispose of the Project Equipment after the Loan has been repaid and such Equipment is no longer part of the Collateral and subject to the terms of the Security Agreement. Borrower agrees that any change in the location of the Project Equipment during the Term must be approved in writing by Lender. Given that Lender cannot exercise Lender's Call Option unless the Project Equipment is operating in New Jersey, Borrower shall ensure that the Project Equipment shall not be moved out of New Jersey during the entire Term. Borrower further agrees to keep the Project Equipment insured and maintained in good condition during the entire Term.

(f) Publication of Lender's Call Option. Borrower consents to Lender taking any actions that Lender feels are appropriate to notify third parties of the existence and continuation of Lender's Call Option including, filing of documents in the real property records in the county where the Facility is located. To this end, the Parties agree to sign a Memorandum

of Option, in the form attached here as Exhibit C, in order to record Lender's Call Option in the public land records. Further, Borrower agrees to execute any subsequent memoranda or other document in the event that the Project Equipment is moved (subject to Lender's written approval in accordance with Subsection 2.7(e) above) from the real property stated in the Memorandum of Option.

2.8. Inspections. Prior to advancing the Loan and thereafter during the Term, Lender, at its sole election and cost, may make inspections, and/or retain a third party to make any such inspections on its behalf, of the Project to ensure the timely and complete progression of the construction and installation of the Project in accordance with Lender-approved plans and specifications for the Project, and that the Project is being operated and maintained in accordance with prevailing industry standards. All inspections by Lender are for Lender's determination of Project Completion in accordance with Subsection 4(d) below and otherwise for its internal purposes only, and are not to be deemed to constitute Lender's approval of the Project and/or its continued operation.

2.9. Regulatory Changes; Acceleration of Loan.

(a) Change in Rate Treatment. Each Party, having entered into this Agreement in good faith, hereby waives all rights on its part now or hereafter to undertake any proceeding for the express purpose of having this Agreement set aside or the regulatory treatment accorded Lender's recovery of Net Monthly Revenue Requirements associated with Lender's Solar Program as approved by the BPU in the 2008 Order set aside pursuant to a change in rate treatment. In addition, while neither Lender nor Borrower are waiving its right to claim that an agency does not have the authority to do so, in the event any legislative, judicial or governmental entity of competent jurisdiction impairs or disallows the full and timely recovery through Lender's Solar Pilot Recovery Charge or a like successor clause or rate mechanism including recovery of New Monthly Revenue Requirements associated with Lender's Solar Program as provided for in the 2008 Order, for ratemaking purposes, then, at the option of Lender and upon written notice to Borrower, the outstanding balance of the Loan and any other amounts due Lender under this Agreement shall be determined after taking into account all payments previously made by Borrower, either in cash or in the form of SRECs valued in accordance with this Agreement and such outstanding amount shall become due and payable in cash by Borrower within thirty (30) days of the date of Lender's written notice to Borrower.

(b) Change in Regulation. If the existing New Jersey regulations governing the Solar Program are amended, superseded and/or otherwise no longer in force, Lender will not accelerate the repayment of the unpaid portion of the Loan and accrued interest, if:

(i) Borrower continues to operate the Project in accordance with this Agreement;

(ii) The value of the quantity of SRECs created by operation of the Project is, and will continue to be, the amount of the Floor Price for each SREC, and that the terms in this Agreement governing the amortization of the Loan and payment of all accrued interest remain in full force and effect; and

(iii) Despite the change in regulation, the BPU continues to allow Lender to enjoy the comparable treatment, as described more fully in Section 2.9(a) above, with regard to those Projects in operation and creating SRECs as Lender enjoyed prior to such change in regulations.

3. No Assumption of Liabilities. Lender shall not assume, and Borrower shall retain and be responsible for, any and all liabilities and obligations of Borrower of any kind or nature whatsoever, including, without limitation, any and all liabilities and obligations of Borrower under the Project Documents, including, without limitation, the Customer Agreement.

4. Conditions Precedent to Advancing the Loan. Lender shall not be obligated to advance the Loan unless the following conditions are satisfied, in form and substance satisfactory to Lender and its counsel, on or prior to the date when Borrower requests disbursement of the Loan:

(a) The Loan Documents, including, without limitation, the Note shall have been completed, duly executed and delivered by Borrower to Lender.

(b) Lender shall have received: (1) the financing statements in form and substance reasonably acceptable to Lender for filing with the appropriate governmental agency or agencies in all jurisdictions (state and county levels) necessary or, in the opinion of Lender, desirable to perfect the Liens created by this Agreement; (2) record searches identifying all financing statements, judgments, tax liens and other Liens on file with respect to Borrower in all jurisdictions referred to under (1) above and such other jurisdictions as Lender may deem appropriate, indicating that no Person, other than Lender and any other holders of Permitted Encumbrances, has any Lien or Liens on any of the Collateral; (3) record owner and mortgage lien searches of the real estate records applicable to the Facility; (4) Lien waivers or subordinations from other lienholders, mortgagees and Borrower's landlord, if applicable, each duly executed by each person that is a party thereto, each of which shall be in full force and effect, and in form and substance satisfactory to Lender; (5) satisfactory evidence of all requisite insurance coverages, as required in this Agreement; and (6) any and all other documents related to the Collateral or Borrower that Lender reasonably requests.

(c) Lender shall have received all Project Documents with respect to the Project, each duly executed by each person that is a party thereto, each of which Project Documents shall be in full force and effect, and in form and substance satisfactory to Lender.

(d) The installation of the Equipment at the Facility shall have been completed; provided that Borrower shall have notified Lender in writing that the Project is substantially complete and Lender shall have verified that the Project has achieved Commercial Operation, subject, in all events, to Lender's inspection rights in Section 2.8. For purposes of this Agreement, in the event the date of Commercial Operation has not occurred within one year after Lender's notification to Borrower of Project approval, Lender shall have the right, exercisable upon written notice to Borrower, to terminate this Agreement and shall be under no further obligation to advance the Loan.

(e) Borrower shall have provided to Lender a complete copy of the BPU's inspection report with respect to the Equipment installed at the Facility.

(f) Metering equipment capable of measuring the electricity generated from the continued operation of the Project throughout the Term shall have been installed in accordance with the Program requirements.

(g) Borrower shall have opened a SREC Account and provided Lender with a corresponding, valid SREC Account tracking number and password.

(h) Borrower shall have certified to Lender that it has not received any rebates with respect to the Project under the CORE Program, SUNLIT Program or comparable program administered by the NJCEP, nor shall Borrower apply for or accept any rebates thereunder with respect to the Project.

(i) There shall be at such time no: (1) injunction, writ, preliminary restraining order, or any order of any nature issued by an arbitrator, court or other governmental authority directing that the transactions provided for herein and/or in the Project Documents or any of them not be consummated as herein or therein provided; or (2) suit, litigation, investigation hearing or proceedings of or before any arbitrator, court or other governmental authority pending or threatened against Borrower and/or the Customer, or any of their respective properties, revenues or assets, with respect to this Agreement, the Security Agreement, the Note, the Project Documents, and/or any of the transactions contemplated hereby or thereby that could result in a material and adverse change thereto.

(j) No Event of Default under this Agreement or any other agreement applicable to Borrower or the Equipment Provider has occurred and is continuing or will result from the making of such Loan.

(k) The representations and warranties of Borrower contained in this Agreement shall be true and correct as of the date of such requested Loan with the same effect as though made on such date, except, however: (i) for such changes as are specifically permitted hereunder; and (ii) to the extent made solely as of a previous date, such warranties shall have been true and correct as of such previous date.

(l) The Solar Loan Program, or any direct successor program thereto, remains in effect.

(m) No event shall have occurred since the date of the execution and delivery of this Agreement which, in the good faith opinion of Lender, is likely to materially and adversely affect the financial and/or credit prospects of Borrower, the operability of the Project as contemplated or otherwise impair the ability of Borrower to perform its obligations under this Agreement, the Security Agreement, the Note, the Project Documents and/or other Loan Documents.

5. Security Agreement. As security for the payment and performance of the obligations of Borrower hereunder and Note and the Loan Documents, Borrower, concurrently

with its execution of this Agreement, will execute and deliver to Lender a fully executed Security Agreement, in form and substance similar to that attached hereto as Exhibit D.

6. SRECs and Environmental Attributes.

(a) In the event that a third party offers Borrower a higher price for SRECs than the then-current Market Price, Lender permits Borrower to sell SRECs to said third party: PROVIDED, HOWEVER, that Borrower notifies Lender in writing of its intent to sell SRECs to such third party, which writing is to include the quantity of SRECs to be sold and the price for such quantity of SRECs, and Borrower utilizes the entire sale price paid by said third party towards (1) the payment of all accrued interest on the Loan, then (2) the amortization of the principal amount of the Loan in the month Borrower receives the proceeds of such sale to a third party. Anything in the foregoing to the contrary notwithstanding, during any period when Lender's Call Option is exercisable hereunder, Borrower shall not have the right to sell SRECs to any person other than Lender or its assigns.

(b) For purposes of this Agreement, an "Environmental Attribute" is an instrument used to represent the environmental costs and/or benefits associated with a fixed amount of electricity generation from the Project. For the Project, Environmental Attributes represent the general environmental benefits of renewable generation such as, for example, and not by means of exclusion, air pollution avoidance. The exact quantity of the environmental benefit (e.g., pounds of emission reductions of a given pollutant) is not indicated by an environmental attribute, though it can be quantified separately in pollution trading markets and through engineering estimates. The Environmental Attribute represents all environmental benefits, whether or not trading markets for such pollutants or benefits exist. Lender will quantify any and all Environmental Attributes, and have the right to trade said Environmental Attributes for its own account.

7. Representations and Warranties.

7.1. Organization. Standing and Power. Borrower is a _____ [form of business] duly organized, validly existing and in good standing under the laws of _____. Borrower has qualified to do business in each and every jurisdiction where the failure of Borrower to so qualify would have a material and adverse impact of Borrower's ability to perform under this Agreement, the Security Agreement, the Note and/or any other Loan Document. Borrower has all requisite power and authority to own, lease and operate its properties, to carry on its business as now being conducted, to operate the Project substantially as contemplated by the Project Documents, and to execute, deliver and perform this Agreement, the Note, the Loan Documents and all writings relating hereto and thereto. All of Borrower's federal, state, local and foreign income, profits, franchise, sales, use, occupation, property, excise and other tax returns and tax reports, if any, required to be filed with respect to the business and assets of Borrower have been filed, as of, at a minimum, the date hereof with the appropriate governmental agencies.

7.2. Authorization of Borrower. The execution, delivery and performance by Borrower of this Agreement and all other writings relating hereto and thereto have been duly and validly authorized by Borrower. No consent or approval of or notification to any party, other

than any consent or approval that has been obtained, is required in connection with the execution, delivery and performance by Borrower of this Agreement, the Security Agreement, the Note, the other Loan Documents and/or any writing relating hereto and thereto or the consummation of the transactions contemplated hereby or thereby.

7.3. Litigation Claims and Proceedings. No litigation, suits, claims, and/or judicial or administrative proceedings of any nature is pending or, to the best knowledge of Borrower, threatened against Borrower or Borrower's property or the Project, the effects of which, in Lender's judgment, would have a material adverse effect on Borrower, its business, its financial condition and/or the Project.

7.4. Liens or Encumbrances on Project Equipment. Borrower represents that there are no liens on the Project Equipment other than the Permitted Encumbrances.

7.5. Laws and Regulations. Borrower is not in any violation of federal, state or local laws, ordinances or regulations pertaining to this Agreement, the Security Agreement, the Note, any the Project Documents and/or any of the transactions contemplated in any of the foregoing or the Project.

7.6. Non-contravention. Borrower represents that the Loan Documents do not violate any agreements to which Borrower is a party or by which Borrower or its assets are bound.

7.7. Disclosures. No representation or warranty by Borrower contained in this Agreement, and no statement contained in any certificate, schedule, exhibit, list or other writing furnished to Lender in connection with this transaction and/or in connection with the Project contains any material untrue statement of fact or omits to state any material fact necessary in order to make the statements contained herein or therein not materially misleading. All copies of all writings furnished to Lender hereunder, or in connection with the transactions contemplated hereby, are true and complete in all material respects. All schedules and exhibits to this Agreement are true and complete in all material respects.

8. Representations and Warranties of Lender. As of the date hereof, Lender represents and warrants that Lender is a corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey and has all requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby.

9. Covenants of Borrower.

9.1. Performance of Customer Agreement and the Project. From and after the date hereof Borrower shall:

(a) forward to Lender copies of all notices, requests, correspondence and other communications relating to the Project Documents and/or the Project promptly upon receipt thereof;

(b) name Lender as lender loss payee and an additional insured on each policy of insurance obtained in compliance with the Project Documents. Each such policy of insurance shall provide that Lender shall be entitled to thirty (30) days' prior written notice from the insurer prior to any termination or modification thereof;

(c) develop, manage, operate and maintain the Project as currently contemplated, in compliance with all provisions of the Customer Agreement, Project Documents, manufacturer's specifications and with all applicable federal, state and local laws, ordinances and regulations;

(d) maintain and/or cause to be maintained all tangible assets relating to the Project in good operating condition, reasonable wear and tear excepted;

(e) file when and as due all federal, state, local and foreign income, profits, franchise, sales, use, occupation, property, excise and other tax returns and tax reports required to be filed with respect to the business and assets of Borrower with the appropriate governmental agencies, and pay, when and as due, all such taxes to all such appropriate governmental agencies;

(f) advise Lender in writing of any breach or default, or any circumstances that constitute, or with the passage of time will come to constitute, a breach or default under, or in any way impair the validity or enforcement of any obligation or tend to reduce the amount payable from the amount under, any of the Project Documents;

(g) advise Lender in writing of any material and adverse change or any event, occurrence or circumstance that is likely to cause a material and adverse change in Project and/or the condition, financial or otherwise, business or operations of Borrower; and

(h) Borrower hereby authorizes Lender to access and review Borrower's SREC Account, and Borrower will provide Lender with all SREC Account information so as to afford Lender with such access.

9.2. Conduct of Business. Except as otherwise permitted in this Agreement from and after the date hereof, Borrower shall not:

(a) mortgage, pledge, or otherwise encumber or subject to lien or suffer to be encumbered or subjected to lien, or dispose of, or agree to dispose of or lease or license to others or agree to so lease or license, any of the assets used or useful in the Project, including, without limitation, any real or tangible personal property and, or commit to do any of the foregoing, except, however, as specified in the Security Agreement;

(b) cancel or change any material existing policy of insurance relating to the Project, unless, however, replaced by an insurance policy providing substantially the same coverage; or

(c) merge or consolidate with any partnership, corporation or other entity of any nature, or change either its name or the address of its principal offices without first giving Lender thirty (30) days' prior written notice of Borrower's intent to do so, or dissolve, liquidate

or wind up its affairs, or sell, lease, transfer or otherwise dispose of a significant portion of its assets, or agree to do any of the foregoing.

9.3. Information: Access to Properties; Books and Records.

(a) Borrower shall make available for inspection during normal business hours, as Lender may request and at Lender's expense, promptly and in the form requested, any and all information, including, without limitation, all books and records reasonably requested by Lender in connection with the Project. Borrower shall permit Lender to make copies of books and records relating to the Project. Should Lender, in the course of inspecting any such books and records, discover any material defect therein which amounts to, or reasonably will amount to, an Event of Default under Section 11.1, below, the costs and expenses incurred by Lender in performing such inspection shall be solely borne by Borrower.

(b) Borrower shall afford Lender and Lender's authorized representatives reasonable access to the real and tangible personal property relating to the Project for the purpose of conducting investigations and examinations thereof. No investigation by Lender or any of Lender's representatives pursuant to this section shall affect any representation, warranty and/or covenant of any Party hereto.

9.4. Insurance.

(a) Borrower, at a minimum, shall maintain the following insurance coverages on the Project and the Collateral:

(i) Commercial General Liability insurance, for bodily injury and property damage, with limits not less than: FIVE MILLION DOLLARS (\$5,000,000) per occurrence and FIVE MILLION DOLLARS (\$5,000,000) annual aggregate, and naming Lender as an additional insured under such policy;

(ii) All Risk Property insurance covering, at a minimum, the full replacement costs of the Project and naming solely Lender as an additional insured and lender loss payee with respect thereto with a maximum deductible under the policy of \$500 for a residential Facility or \$200 for a commercial Facility, as the case may be;

(iii) Fidelity/Crime Insurance for limits of at least ONE MILLION DOLLARS (\$1,000,000) per claim; and

(iv) such other insurance as Lender may reasonably require.

(b) Throughout the Term of this Agreement, Borrower shall carry the foregoing insurance coverages, issued by one or more nationally-known insurance underwriters, each underwriter having an A.M. Best's rating of "A-/VII" or better, or, for underwriters not rated by A.M. Best, a quality equivalent to that of an A.M. Best rating of "A-/VII" or better, as decided by Lender in its sole discretion.

(c) Borrower shall instruct each and every insurance company providing the foregoing coverages to notify Lender promptly of any cancellation or material change of said coverages, in whole or in part. Borrower is to submit annually during the Term evidence that all insurance required under this Agreement is in full force and effect.

(d) All such policies of insurance shall provide for at least thirty (30) days advance notice in writing to Lender of any cancellation or modification thereof. If Borrower fail to pay the premiums on any such insurance, Lender shall have the right (but shall be under no duty) to pay such premiums for Borrower's account. Borrower shall immediately repay to Lender any sums which Lender shall have so paid, together with interest thereon at the applicable rate with respect to the Loan. Borrower hereby authorizes and directs Lender, and Lender shall have the sole discretion, to apply or pay all such proceeds to (1) the payment of the Obligations, (2) the restoration or replacement of the property destroyed or damaged, or (3) Borrower.

(e) Each such insurance policy set forth above shall include (i) provisions or endorsements naming Lender, its affiliates, directors, officers and employees as additional insureds; (ii) provisions that such insurance is primary insurance with respect to the interest of Lender and such additional insureds and that any insurance maintained by Lender is excess and not contributory insurance with the insurance required hereunder; (iii) a cross-liability or severability of insurance interest clause; and (iv) provisions by which the insurer waives all rights of subrogation against Lender and the additional insureds.

(f) Borrower shall provide Lender with Certificates of Insurance acceptable to Lender evidencing the policies, provisions and endorsements listed above within ten (10) calendar days after they have been obtained, and, upon request of Lender, on an annual basis thereafter.

9.5. Maintenance of Equipment. During the Term, Borrower shall keep and maintain the Project and all related Equipment in good operating condition and repair, ordinary wear and tear excepted. Borrower shall ensure that any and all necessary repairs and replacements are made so that the value and operating efficiency thereof shall at all times be maintained and preserved. In the event Borrower, at Lender's reasonable judgment, fails to maintain the Equipment to ensure its continued operation in accordance with the Project Documents, Lender shall have the right to require Borrower to retain the services of an experienced third-party maintenance provider to maintain the Equipment. To the extent Borrower fails to comply with the foregoing provisions, Lender shall have the right (without any obligation to do so) to perform the foregoing obligations on behalf of Borrower. Borrower shall immediately reimburse Lender for all such monies expended by Lender in fulfilling any such obligations, together with interest thereon at the applicable rate with respect to the Loan. Borrower shall not permit any such items to become affixed to real estate as a fixture as defined under the Uniform Commercial Code.

9.6. Maintenance of Collateral. Borrower will properly maintain the Collateral, defend same against any adverse claims and demands and protect and maintain the Collateral.

9.7. No Other Interests Granted. Except as otherwise disclosed by Borrower to Lender as a Permitted Encumbrance, Borrower has not executed, will not execute, and has not had or will have executed on their or its behalf, any assignment, pledge, security or other similar agreement or financing statement covering the Collateral, or any portion thereof, except to Lender, and Borrower will keep the Collateral free from any and all liens, claims, security interests and encumbrances of any kind or nature, except for the assignment, pledge and security interest herein granted to Lender.

9.8. Change of Place of Business. Borrower will notify Lender in writing prior to any change in Borrower's place of business, or, if Borrower has or acquires more than one place of business, prior to any change in either Borrower's chief executive office and/or the office or offices where Borrower's books and records are kept.

9.9. Change in Name. Borrower will notify Lender immediately in writing of any proposed or actual change of Borrower's name, identity and/or corporate structure.

9.10. Further Assurances. Borrower agrees that, at any time and from time to time after the date hereof, upon the request of Lender, Borrower shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered on its behalf, all such further acts, deeds, assignments, conveyances, transfers, powers of attorney or assurances as may be reasonably required in order fully to grant, assure and confirm to Lender a perfectable, first priority security interest in the Collateral.

10. Covenants of Borrower and Lender. Borrower and Lender shall cooperate and use all reasonable efforts, in good faith, to make all registrations, filings and applications and to give all notices and obtain all governmental and regulatory consents, authorizations, approvals, licenses, permits, orders, qualifications and waivers necessary or desirable for the consummation of the transactions contemplated hereby.

11. Events of Default: Remedies: Cure Rights.

11.1. Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default":

(a) any failure of Borrower to make any payment of principal and interest as provided in the Note and/or hereunder;

(b) any material representation or warranty made by Borrower herein, or any material statement, information or certification made or provided by Borrower to Lender in connection with this Agreement, the Note and/or the Project, shall prove to have been false or incorrect in any material respect at the time made or given;

(c) an assignment by Borrower of this Agreement or any rights created hereunder in violation of the provisions hereof;

(d) the failure by Borrower to perform or observe any of the material covenants, agreements, terms, conditions or provisions of this Agreement not otherwise specified in this section;

(e) Borrower: (i) makes an application for the appointment of a receiver, trustee or custodian for the Collateral and/or any other of Borrower's assets; (ii) files a petition under any chapter of the Bankruptcy Code or any similar federal and/or state law or regulation providing for the relief of debtors; (iii) makes an assignment for the benefit of its creditors; (iv) has a petition in bankruptcy, or other similar relief, filed against it, and such petition is not withdrawn or discharged within ninety (90) days after the date of its filing; (v) institutes any proceeding or action for the dissolution, liquidation, or termination of Borrower;

(f) Borrower fails to pay, when due, any amount required to be paid to Lender;

(g) Borrower commits an Event of Default under the Security Agreement;

(h) an Event of Default, as such term is defined in any of the Project Documents, occurs;

(i) Borrower breaches and/or defaults under any agreement between Borrower and Lender; and/or

(j) Borrower defaults under any of its obligations to a lienholder with respect to any Permitted Encumbrance.

11.2. Cure Rights; Remedies.

(a) Upon the occurrence of an Event of Default, Lender shall provide written notice of such Event of Default to Borrower, and following receipt of such notice, Borrower shall have: (i) a two-Business Day (2-Business Day) period within which to fully cure any Event of Default involving the payment of money; and (ii) a thirty-day (30-day) period within which either to cure any other Event of Default not involving the payment of money or, if the Event of Default does not involve the payment of money, is curable and cannot be fully cured within such thirty-day (30-day) period, to institute corrective action satisfactory to Lender and to pursue such corrective action diligently, provided that said thirty (30) day period shall not be made available to Borrower if Lender determines, in its sole discretion Lender's rights with respect to Borrower and/or the Collateral could be materially adversely affected. The foregoing provisions with respect to notice and cure periods shall not apply in the case of Section 11.1(e) above.

(b) Upon the occurrence of an Event of Default that is not cured as per subsection 11.2(a), Lender, in its sole discretion, may declare the entire outstanding amount of all Advances and all accrued and unpaid interest thereon to be immediately due and payable.

(c) Upon Borrower committing an Event of Default, Lender shall have the right to exercise, at its option, any and all rights and remedies available at law and/or in equity and/or other proceeding. If such Event of Default involves the payment of any amount due under this Agreement, such amount shall bear interest from the date due to the date paid at a rate equal to the interest rate stated in Subsection 11.2(h), calculated in conformance with Section 2.3.

(d) Upon the occurrence and during the continuance of any condition that, after notice or lapse of time or both, would constitute an Event of Default, Lender shall have the right, as the true and lawful agent of Borrower, with power of substitution for Borrower and in either Borrower's name, Lender's name or otherwise, for the use and benefit of Lender: (i) to offset any amounts owed by Borrower to Lender, which are not paid when due, against any amounts due and owing by Lender to Borrower from any source whatsoever; (ii) to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; (iii) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any part of the Collateral; (vi) to commence and prosecute any and all suits, actions or proceedings at law or in equity or otherwise in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; (vii) to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating or pertaining to all or any portion of the Collateral; and (viii) to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though Lender were the absolute owner of the Collateral for all purposes;

(e) If, in the good faith business judgment of Lender, Borrower is not performing its obligations under this Agreement or, after Borrower's receipt of a written request by Lender to provide adequate assurances of performance, is likely to breach any of its obligations under any of the Loan Documents, Lender may, at the cost and expense of Borrower, but is not obligated to, take such steps as are necessary to remedy such failure to avoid such breach. Lender shall not be obligated to take any such steps.

(f) Borrower shall reimburse Lender promptly for all reasonable costs and expenses Lender incurs in exercising any and all of its remedies, including, without limitation, the costs and expenses incurred by Lender in inspecting Borrower's books and records, as per Subsection 9.3(a), plus interest on the amount of such costs and expenses from the date incurred by Lender to the date reimbursed by Borrower, calculated in accordance with Section 2.3, and Lender shall be entitled to offset such amounts against payment of any amounts owed to Borrower from any source whatsoever.

(g) Upon the occurrence of an Event of Default, Lender may institute a suit directly against Borrower without first foreclosing on or liquidating the Collateral.

(h) Upon the occurrence of an Event of Default, Lender, in its sole discretion, may increase the rate of interest accruing on the Loan and payable hereunder to the rate of ONE

AND ONE-HALF PERCENT (1 1/2%) per month, calculated in accordance with the appropriate provision of Section 2.3, for each month after the Event of Default that the Loan remains outstanding.

(i) In the event of a failure of the foregoing remedies, Lender may enter into the Facility where the Collateral may be located, take possession of said Collateral and restore the Facility with respect thereto, the costs of which shall be recouped by Lender as set forth in Section 11.4, paragraph "First".

11.3. Lender's Right to Dispose of Collateral. Borrower agrees that Lender shall have the right, subject to the mandatory requirements of current law, to sell or otherwise dispose of all or any part of the Collateral, at public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery as Lender shall deem appropriate. Lender shall be authorized at any such sale, if it deems it advisable to do so, to restrict the prospective bidders or purchasers to persons who will represent and agree that they are purchasing the Collateral for their own account for investment and not with a view to the distribution or sale thereof, and upon consummation of any such sale Lender shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of Borrower, and Borrower hereby waives to the fullest extent permitted by law, all rights of redemption, stay and appraisal which Borrower now has, or may have at any time in the future, under any rule of law or statute now existing or hereafter enacted. Lender shall recognize any right of the Customer to quiet enjoyment of the Collateral.

11.4. Application of Proceeds. Lender shall apply any Collateral consisting of cash and the proceeds of any collection or sale of any other Collateral as follows:

FIRST, to the payment of all costs and expenses incurred by Lender in connection with such collection or sale or otherwise in connection with this Agreement, any other agreement in connection with the Loan and accrued interest, including, but not limited to, all court costs and the reasonable fees, disbursements and other charges of its agents and legal counsel -- whether incurred in any action or proceeding either between the Parties or between Lender and any third party;

SECOND, to the payment in full of the accrued interest on the Loan;

THIRD, to the payment of the principal of the Loan; and

FOURTH, to Borrower and its successors or assigns, or as a court or agency of competent jurisdiction may otherwise direct.

Lender shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of the Collateral by Lender, including, without limitation, pursuant to a power of sale granted by statute or under a judicial proceeding, the receipt of Lender or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not

be obligated to see to the application of any part of the purchase money paid over to Lender or such officer or be answerable in any way for the misapplication thereof.

12. Amendment and Waivers.

12.1. Amendments, Modifications and Supplements. This Agreement may be amended, modified or supplemented only by an instrument in writing executed by, and delivered on behalf of, each of the Parties.

12.2. Waivers. The representations, warranties, covenants and conditions set forth in this Agreement may be waived only by a written instrument executed by the party so waiving. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same. No waiver by any party of any condition, or breach of any term, covenant, agreement, representation or warranty contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of any other condition or of the breach of any other term, covenant, agreement, representation or warranty contained in this Agreement.

13. Survival of Representations, Warranties and Covenants. All representations, warranties and covenants of the Parties contained in this Agreement and/or the Note and/or made pursuant hereto or thereto shall survive until this Agreement expires or is sooner terminated or, in the case of any covenants, until such covenants have been performed fully.

14. Indemnification. Borrower indemnifies and holds harmless Lender and Lender's shareholders, subsidiaries, affiliates, officers, directors, successors and assigns, and the agents, representatives and employees of any and all of the foregoing, from and against any and all liability (including, without limitation liability in tort, whether absolute or otherwise), obligations, losses, penalties, claims, suits, costs and disbursements, including without limitation, legal fees and disbursements in any way relating to, or arising out of, the Loan Documents, the Project Documents and/or the Collateral; provided, however, that there shall be no indemnity for liability caused by Lender's gross negligence or willful misconduct. This provision shall survive the expiration or sooner termination of this Agreement.

15. Notices. Any and all notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally by courier, or by overnight delivery by a nationally recognized overnight delivery service, or five (5) days after mailing if sent by registered or certified mail, postage prepaid, addressed as follows:

If to Lender: Public Service Electric and Gas Company
80 Park Plaza, T-8
Newark, New Jersey 07102
Attention: Solar Loan Program Administrator

With a copy to Lender's legal counsel at the same address.

If to Borrower:

Attention:

Any party may change the address to which notices or other communications are to be sent to it by giving written notice of such change in the manner provided herein.

16. Assignment. This Agreement may not be assigned by any Party without the prior written consent of the other Party. Notwithstanding the foregoing, however, Lender, without Borrower's consent, may: (a) assign its rights and delegate its obligations hereunder to one or more subsidiaries or affiliates of Lender; or (b) assign its rights to receive moneys and/or SRECs hereunder and under the Note to any unaffiliated third party for financing purposes only. In all regards, however, no such assignment or delegation by Lender shall relieve Lender of its obligations hereunder. Subject to the foregoing, this Agreement shall bind and inure to the benefit only of the Parties and their respective successors and permitted assigns. In the event that the real property where the Project is located is transferred or assigned to a third party, Borrower shall notify Lender prior to such transfer or assignment so as to afford Lender the opportunity to review the creditworthiness of such third party, and, if such creditworthiness is substantially similar to that of Borrower's, allow such third party to agree to be obligated under the terms and conditions of this Agreement and the other Loan Documents to the same extent as Borrower. If such third party does not agree to be bound by this Agreement and/or the Loan Documents or does not have a similar level of creditworthiness to Borrower's, then Borrower shall pay Lender at the time of such transfer of real property the full amount of the Loan Amortization and accrued interest.

17. Entire Agreement. This Agreement, together with the schedules and exhibits hereto and the Notes and the other documents and instruments referred to herein and/or therein, sets forth the entire agreement and understanding of the Parties in respect of the transactions hereby contemplated, and supersedes all prior agreement, arrangements and understandings relating to the subject matter hereof.

18. No Third Party Beneficiary. Nothing in this Agreement is intended or shall be construed to give any person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein, other than the Parties.

19. Recitals. The clauses above set forth in the Recitals are herein incorporated by reference as though herein set forth at length.

20. Counterparts. This Agreement may be executed in any number of counterparts, all of which together shall be considered to constitute one instrument.

21. Section Headings. All section headings are inserted for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement and have no independent significance.

22. Interpretation. In this Agreement the singular includes the plural and the plural the singular; words importing any gender include the other genders; the words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation";

references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, without prejudice to any provisions of this Agreement prohibiting such amendments and other modifications; and references to persons include their respective permitted successors and assigns.

23. Severability. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

24. Applicable Law. **THIS AGREEMENT IS GOVERNED EXCLUSIVELY BY AND CONSTRUED IN STRICT ACCORDANCE WITH THE LAWS OF THE STATE OF NEW JERSEY APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED ENTIRELY WITHIN THE STATE OF NEW JERSEY WITHOUT REGARD TO NEW JERSEY'S CONFLICT OF LAWS PROVISIONS THAT MAY DEFEAT THE APPLICATION OF NEW JERSEY'S SUBSTANTIVE LAW TO THIS AGREEMENT, THE NOTE AND THE UNDERLYING TRANSACTIONS.**

25. Miscellaneous. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any Person not a party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of Lender's system or any portion thereof to Borrower or to the public, nor affect the status of Lender as an independent public utility corporation, or Borrower as an independent individual or entity. Lender's review or acceptance of the Project and its operation shall not be construed as confirming or endorsing the design or as any warranty of safety, durability, reliability and/or performance, Lender shall not by reason of such review or failure to review be responsible for the strength, safety, details of design, adequacy, capacity, reliability and/or operation of the Project, nor shall Lender's extension of the Loan to Borrower be deemed to be an endorsement of the Project, in whole or in part.

26. Relationship of the Parties. For purposes of this Agreement, Lender and Borrower expressly agree that the relationship of Lender to Borrower is that of a lender only. The intent of this provision is to clarify and stipulate that Lender is not a partner, fiduciary and/or coventurer of Borrower and that Lender's sole interest in the Collateral is for the purpose of security for repayment of the obligations of Borrower to Lender, as Grantor to Secured Party under the Security Agreement.

IN WITNESS WHEREOF, each party hereto has caused its duly authorized representative to execute and deliver this Agreement as of the date first above written.

Public Service Electric and Gas Company *[Insert Name Of Borrower]*

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print Name)

Name: _____
(Print Name)

Title: _____

Title: _____

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EXHIBIT A
(Form of Note)

[To Be Provided]

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EXHIBIT B
(Form of Transaction Confirmation Letter)

[To Be Provided]

DRAFT

EXHIBIT C
(Form of Memorandum of Option)

[To Be Provided]

DRAFT

EXHIBIT D
(Form of Security Agreement)

[To Be Provided]

DRAFT

EXHIBIT E
BORROWER'S PROGRAM APPLICATION

[Copy of Borrower's Loan Application to be Attached]

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**EXHIBIT F
LOAN AMORTIZATION SCHEDULE**

[below form to be completed]

(1)	(2)	(3)	(4)	(5)	(6)	(7)
<u>Payment</u>	<u>Date</u>	<u>SRECs Generated*</u>	<u>Total Payment</u>	<u>Interest</u>	<u>Principal Payment</u>	<u>Scheduled Loan Balance</u>
	Issuance Date					\$ A
1	mm/dd/yy	#	\$	\$	\$	\$
2	mm/dd/yy					
3	mm/dd/yy					
4	mm/dd/yy					
5	mm/dd/yy					
6	mm/dd/yy					
:	:					
:	:					
175	mm/dd/yy					
176	mm/dd/yy					
177	mm/dd/yy					
178	mm/dd/yy					
179	mm/dd/yy					
180	mm/dd/yy					\$0

* "SRECs Generated" column represents the SRECs anticipated to be generated by the Project during the month. Actual SREC generation may differ.

EXHIBIT G
SCHEDULE OF PERMITTED ENCUMBRANCES

[To Be Provided]

DRAFT