

**SOLAR PROGRAM LOAN AGREEMENT**  
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**EXHIBIT A – PROMISSORY NOTE**

**EXHIBIT B – TRANSACTION CONFIRMATION LETTER**

**EXHIBIT C – MEMORANDUM OF OPTION**

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**EXHIBIT F – LOAN AMORTIZATION SCHEDULE**

**EXHIBIT G – SCHEDULE OF PERMITTED ENCUMBRANCES**

THIS SOLAR PROGRAM LOAN AGREEMENT is entered into as of \_\_\_\_\_, 20\_\_ by Public Service Electric and Gas Company, a New Jersey corporation ("Lender"), having its general offices at 80 Park Plaza, Newark, New Jersey 07102, and \_\_\_\_\_, [an] individual[s] residing at \_\_\_\_\_, New Jersey \_\_\_\_\_ ([collectively] "Borrower"). Borrower and Lender are sometimes referred to, individually, as "Party" and together as "Parties."

### RECITALS

- A. The State of New Jersey's Renewable Portfolio Standard ("RPS") mandate that all electricity suppliers have to provide a percentage of their electricity sales from solar generation. To meet this mandatory requirement, the New Jersey Board of Public Utilities (the "BPU"), through its Office of Clean Energy, established a program for 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 is referred to as the "SREC Program Administrator"). These SRECs, once it is created, represents 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 the SRECs under the NJCEP to show their 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 ("Program") through which Lender will provide financing to developers of solar projects and electric distribution customers who develop solar-powered generation projects 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 to this Agreement as Exhibit E. This Program Application is a part of this Agreement.
- D. Borrower 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, purchasing, and installing a solar-powered generation system ("Project") at Borrower's facility or residence (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 has asked Lender to provide financing to Borrower to repay a portion of the costs incurred by Borrower for the completed Project.
- F. Lender is willing to provide Borrower with, and Borrower accepts such financing, in accordance with the terms of this Agreement.

The Parties agree as follows:

1. Definitions. As used in this Agreement, unless the context is clear requiring other definitions, the following terms shall have the following meanings:

“2008 Order” has the meaning set forth above in the Recitals.

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

“Agreement” means this agreement.

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

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

“Borrower” has the meaning set forth above in the Recitals.

“BPU” has the meaning set forth above in the Recitals.

“Business Day” means any day other than a Saturday, a Sunday or any 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 those 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 additions, substitutions to, and products and Proceeds of (a), (b), (c) and (d).

“Contract Price” has the meaning set forth below in Section 2.7.

“Contract Year” means the following: (a) if this Agreement is signed on the first day of the month, then the Contract Year is the twelve-month period beginning on the day the Agreement is signed, and ending on the last day of the twelfth month thereafter. For example, if this Agreement was signed on November 1<sup>st</sup>, the Contract

Year would be begin on November 1<sup>st</sup> and end on October 31<sup>st</sup> of the following year; (b) if this Agreement is signed on the day other than first day of the month, the first Contract Year will be a twelve-month period beginning on the first day of the next month plus the portion of the month in which the agreement was signed; each subsequent Contract Year will be measured from the first day of the first month thereafter. For example, if this Agreement was signed on April 7, 2008, the first Contract Year would start April 7, 2008 and end on April 30, 2009, and the second Contract Year would start on May 1, 2009 and end on April 30, 2010, and so on.

“Customer Agreement” means the agreement between Equipment Provider and Borrower to develop, design, procure and install the Project, including any sale of electric energy generated by the Project.

“Delivery Period” has the meaning set forth below in Section 2.7.

“Equipment” or “Project Equipment” means all of Borrower's solar panels and Project related equipment, machinery, components, wiring, meters, replacement parts and consumables comprising the Project, whether owned now or acquired after the date of this Agreement.

“Equipment Provider” has the meaning set forth above in the Recitals.

“Events of Default” has the meanings set forth below in Section 11.1.

“Environmental Attribute” has the meaning set forth below in Section 6.

“Facility” has the meaning set forth above in the Recitals.

“Floor Price” means the minimum price of an SREC used to satisfy Borrower's payment obligations under the Loan, and is the lowest price which will be credited to Borrower when 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 set forth above in the Recitals.

“Lender's Call Option” has the meaning set forth below in Section 2.7.

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

“Loan” has the meaning set forth below in Section 2.1.

“Loan Amortization Schedule” means the schedule attached to this Agreement as Exhibit F.

“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 those documents.

“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 the 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. If no price is published on the website for the relevant month, the Market Value will be the average of three quotes received from independent brokers.

“MW” means megawatts.

“MW-hour” means megawatt-hours.

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

“Note” has the meaning set forth below in Section 2.2.

“Obligations” means any and all obligations, liabilities and agreements of Borrower under the Loan Documents, and will include any and all costs and expenses of, or incurred by, Lender in collecting payment of the Loan and in enforcing the provisions of this Agreement, including, but not limited to, 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.

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

“Permitted Encumbrances” means (a) Liens expressly disclosed by Borrower to Lender in Exhibit G and approved by Lender in writing, which may include, among other things, a home mortgage, home equity loan or line of credit, so long as the foregoing do not impair the Lender’s first priority security interest in the Collateral; (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, institution, entity, party, corporation, limited liability company, or government agency (whether national, federal, state, county, city, municipal, or otherwise).

“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 or damage 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.

“Project” has the meaning set forth above in the Recitals.

“Project Documents” means: (a) a fully executed Customer Agreement; (b) waivers signed by the Equipment Provider and each of its subcontractors on the Project waiving any Liens on the Collateral; (c) waivers and subordination agreements signed by any other lienholders or mortgagees of Borrower, or Borrower’s landlord, if any, waiving or subordinating any Liens on the Collateral; (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 below in Section 2.5(a).

“RPS” has the meaning set forth above in the Recitals.

“Scheduled Loan Balance” means the Scheduled Loan Balance set forth in the Loan Amortization Schedule attached as Exhibit F.

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

“SRECs” has the meaning set forth above in the Recitals.

“SREC Account” has the meaning set forth below in Section 2.5(b).

“SREC Program Administrator” has the meaning set forth above in the Recitals, and can also mean any successor to the SREC Program Administrator who is 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 set forth below in Subsection 2.7(b).

## 2. Loan; General Terms

2.1 Loan Agreement. Lender agrees to lend to Borrower for the purpose of reimbursing a portion of the costs incurred in designing, purchasing and installing the Project the amount of \_\_\_\_\_ AND 00/100 DOLLARS (\$ \_\_\_\_\_), which amount is 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 ("Note"), which Note will be substantially in the form of the document attached to this Agreement as Exhibit A.

2.3 Interest Rate. The Loan shall bear interest at the rate of **six and one-half percent (6.5%)** per year, which is the same as the monthly rate of 0.541667% (calculated as  $6.5\% \div 12 = 0.541667\%$ ). Interest shall be calculated monthly, at the end of each month, on the Actual Loan Balance as of the beginning of such month. Notwithstanding the preceding sentences if this Agreement is executed on a day other than the last day of the month or Loan is prepaid in full on a date other than the last day of the month, then the calculation of interest for such partial month only shall be based upon a daily rate of 0.0178082% (calculated as  $6.5\% \div 365 = 0.0178082\%$ ). By way of example, if this Agreement were to be executed on the 15<sup>th</sup> day of a 31 day month, interest would accrue at such daily rate for 17 days (representing the period beginning on the date this Agreement is signed and ending on the last day of that month). Regardless of whether paid in cash or SRECs as provided here, without limiting any of Lender's rights under this Agreement, if 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 stated rate. If this occurs, the effective rate of interest with respect to the Loan will be higher than 6.5% per year.

2.4 Term. The term of this Agreement is ten (10) years from the date Lender advances the Loan to Borrower ("Term"). Borrower may prepay the Loan prior to the end of the ten (10) year Term as provided in Section 2.6. Lender's Call Option as provided for in Section 2.7 shall survive the payment or prepayment of the Loan and continue in effect for the full Term.

## 2.5 Repayment of Loan; Payment in SRECs.

(a) The full amount of the Loan and all interest due is payable in periodic installments as set forth in the Note. All amounts due under this Agreement and the Note can be paid in (i) cash or (ii) the value of the SRECs created by operation of the Project as described in section 2.5(b) below. Following each Quarter, Lender will provide an amortization statement to Borrower showing the amount paid(s) by Borrower in cash and SRECs, the Actual Loan Balance and the cumulative difference ("Quarterly Amortization Statement").

(b) Borrower shall elect to use cash or the SRECs created by the Project to repay the Loan and accrued interest prior to the execution of this Agreement. By written notice to Lender sixty (60) calendar days prior to the end of any Contract Year, the Borrower may change its election for the succeeding Contract Year. Notwithstanding the foregoing, Borrower may use the SRECs only 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 automatically transfer SRECs to Lender's account and Borrower shall have executed any documents that Lender requires to affect the automatic transfer;
- (v) The value of the quantity of SRECs created by operation of the Project for purposes of repaying the Loan and accrued interest shall be determined at the time of such repayment and shall be the greater of the Floor Price or the Market Value;
- (vi) If the value of the quantity of SRECs created by the operation of the Project (or the cash payments) being applied to repay the Loan exceeds the amount due from Borrower to satisfy his/her periodic obligations under this Agreement and the Note for such period, Lender will apply the excess amount to the Actual Loan Balance. The application of such excess shall not affect the periodic payments shown on the Loan Amortization Schedule except that once all payments due under the Loan are paid in full, no further periodic payment shall be required.

- (vii) **Annual True-Up.** Lender will perform a true-up at the end of every Contract Year (“Annual True-Up”). 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 (“90% Amount”). Within sixty (60) calendar days from receipt of written notice from 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, 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 (“Biennial True-Up”). 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) determine the Scheduled Loan Balance for the corresponding period. Within sixty (60) calendar days from receipt of written notice from Lender, 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 made on the Loan (whether in cash and/or the value of SRECs generated by the operation of the Project) will be applied (i) on the last day of the month (for example, if an SREC was transferred to Lender’s account on the 20<sup>th</sup> of the month, Lender would apply the value of such SREC on the last day of the month), and (ii) first to the payment of accrued interest, then to the repayment of the principal amount of the Loan.

(d) Within thirty (30) calendar days prior to the conclusion of the Term, Lender shall provide written notice to the Borrower of the Actual Loan Balance (if any). Within thirty (30) calendar days after such notice, Borrower will pay to Lender the Actual Loan Balance (if any). If Borrower pays any Actual Loan Balance after the expiration of the Term, interest will accrue, calculated in accordance with Section 2.3.

2.6 **Prepayment of Loan.** Subject to Lender’s Call Option described below in Subsection 2.7(a), Borrower may pay all or a portion of the outstanding amount of the Loan and accrued interest 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 the higher of the Floor Price or Market Value. Any such prepayment will be applied to the Actual Loan

Balance. There shall be no prepayment penalty assessed to Borrower for paying off the Loan and accrued interest prior to the end of the Term.

2.7 Lender's Call Option. Borrower 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 and discretion to exercise the Lender's Call Option, as described below, if Borrower repays to Lender the full amount of the Loan and accrued interest prior to the end of the Term, regardless of whether such repayment is 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: If the Loan is repaid prior to the expiration of the Term for any reason, Lender shall have the option ("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 the Term expires. Option shall mean that 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. The Option may be exercised by Lender directly or through an assignee.

(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 25<sup>th</sup> of the month prior to the commencement of a Delivery Period, or on the next succeeding Business Day if the 25<sup>th</sup> of such month does not fall on a Business Day. If the Parties are unable to communicate with each other by telephone, a facsimile transmission by Lender to Borrower to Borrower's facsimile machine (if any) ((\_\_\_\_) \_\_\_\_-\_\_\_\_) prior to 11:00 AM (Eastern Prevailing Time) on 25<sup>th</sup> of the month prior to the commencement of a Delivery Period, or on the next succeeding Business Day if the 25<sup>th</sup> of such month does not fall on a Business Day or written notice delivered by overnight mail shall constitute sufficient notice. In this 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, which will be determined as described in Section 2.7(d) below; and (c) the Delivery Period. Each exercise shall be put in writing in a written Transaction Confirmation Letter, substantially in the form of the document attached to this Agreement as Exhibit B, and shall be governed by its terms. The terms of Exhibit B are deemed accepted by Lender and Borrower by their signatures to this Agreement, and such terms apply to the Lender's Call Option at all times during the Term, and any exercise of the Lender's Call Option. Each Transaction Confirmation Letter shall be effective upon delivery by Buyer (Lender) to Seller (Borrower) unless the Seller (Borrower) gives the Buyer (Lender) written notice that the Transaction Confirmation Letter is not consistent with the verbal notification of Lender's intent to exercise Lender's Call Option. To be effective, such contesting notice must be delivered to the Buyer (Lender) within three (3) Business Days of the Seller (Borrower)'s receipt of the Transaction Confirmation Letter.

(c) Delivery Period: Each Delivery Period shall commence on the first calendar day of the Contract Year Quarter following Lender's verbal notice of its intent to exercise Lender's Call Option and end on the last calendar day of the third month of the Quarter following commencement of the Delivery Period. There can be more than one Delivery Period, but only one Delivery Period can 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 the Market Value, based on the 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 Parties' intention Parties that the Lender's Call Option remain in effect for the entire Term, even if Borrower sells the Project Equipment (alone or in connection with a sale of the Facility) or if there is 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. Giving that Lender cannot exercise the Lender's Call Option unless the Project Equipment is operating in New Jersey, Borrower shall ensure that the Project Equipment will not be moved out of New Jersey during the entire Term. Borrower also 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 the 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 the Lender's Call Option in the public land records. Further, Borrower agrees to execute any subsequent memoranda or other documents as Lender may require in the event that the Project Equipment is moved (with approval of Lender) from the real property stated in the Memorandum of Option.

2.8 Inspections. Prior to advancing the Loan and also during the Term, Lender (or its designee), at its sole election and cost and upon written notice to Borrower, may make inspections of the Project to confirm that Operation (as defined in Section 4(d) below) has been achieved and that the Project is being operated and maintained in accordance with this Agreement. Borrower shall not rely on the Lender's inspection for any purpose. Borrower shall be solely responsible for ensuring that the Project is installed and constructed in accordance with the Customer Agreement. Lender's inspection and the disbursement of a Loan shall not be deemed to constitute Lender's approval or warranty of the Project, the Equipment or the Equipment Provider and/or its continued operation.

2.9 Regulatory Changes; Acceleration of Loan. If the existing New Jersey regulations governing the Solar Program are amended, suspended and/or otherwise no longer in force, Lender will not accelerate the repayment of the unpaid portion of the Loan and accrued interest, PROVIDED, HOWEVER, that:

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

(b) The terms in this Agreement governing the amortization of the Loan and payment of all accrued interest remain in full force and effect; and

(c) 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 any and all liabilities and obligations of Borrower under the Project Documents, including 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 before the date when Borrower requests disbursement of the Loan:

(a) All of the Loan Documents 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 insurance coverage required in this Agreement; (6) any and all other documents related to the Collateral or Borrower that Lender reasonably requests.

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

(d) Borrower shall have notified Lender in writing that the Project is substantially complete and producing SRECs (“Operation”) and Lender shall have verified that the Project has achieved Operation pursuant to Lender’s inspection rights in Section 2.8. In the event the date of Operation has not occurred within one year after Lender’s notification to Borrower of Project approval, Lender shall have the right, to be exercised by giving upon written notice to Borrower, to terminate this Agreement and shall be under no further obligation to advance the Loan, provided however that Lender shall provide an additional six (6) months grace period before terminating this Agreement if, but only if, (i) Borrower has not achieved Operation due to circumstances beyond Borrower’s control, (ii) Borrower has exercised reasonable diligence in connection with the Project and (iii) Borrower has expended capital in connection with the Project.

(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) 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 in this Agreement and/or in the Project Documents not be consummated as provided; or (2) suit, litigation, investigation hearing or proceedings of or before any arbitrator, court or other governmental authority pending or threatened against Borrower, or any of Borrower’s properties, revenues or assets, with respect to the Loan Documents, the Project Documents, and/or any of the transactions contemplated in those documents that could result in a material and adverse change to them;

(i) 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;

(j) The representations and warranties of Borrower contained in this Agreement shall be true and correct as of the date Lender advances the 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 that previous date;

(j) The Solar Loan Program, or any program which is a direct successor to it, remains in effect; and

(k) 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 his/her obligations under the Loan Documents and/or the Project Documents.

5. Security Agreement. As security for the payment and performance of the obligations of Borrower under the Loan Documents, at the same time that Borrower executes and delivers to Lender this Agreement, Borrower will execute and deliver to Lender a fully executed Security Agreement, in the form of the document attached to this Agreement as Exhibit D.

6. SRECs and Environmental Attributes.

(a) If a third party offers Borrower a higher price for SRECs than the then-current Market Price, Lender permits Borrower to sell SRECs to that third party: PROVIDED, HOWEVER, that Borrower notifies Lender in writing of his/her intent to sell SRECs to that third party, and shall include in that written notification the quantity of SRECs to be sold and the price for such quantity of SRECs, and Borrower utilizes the entire sale price paid by that 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 the sale to a third party. After the Loan is repaid, but before the end of the Term – that is, during any period in which the Lender's Call Option could be exercised by Lender – Borrower shall not have the right to sell SRECs to anyone but Lender or Lender's 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 generated by the Project. For the Project, Environmental Attributes represent the general environmental benefits of renewable generation such as, for example, 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 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, his/her financial condition and/or the Project.

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

7.3 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 in those writings not materially misleading. All copies of all writings furnished to Lender in connection with this Agreement or the transactions contemplated in the Loan Documents, are true and complete in all material respects. All schedules and exhibits to this Agreement are true and complete in all material respects.

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 No Contravening Agreements. Borrower represents that the Loan Documents do not violate any agreements to which Borrower is a party.

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 of this Agreement 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 their receipt;

(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) calendar 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, excluding reasonable wear and tear;

(e) file when and as due all federal, state, local and foreign income and other tax returns and tax reports required to be filed with respect to the 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 may come to constitute, a breach or default under the Loan Documents or Project Documents, 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 Loan Documents or 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 the Project and/or the financial condition of Borrower; and

(h) Borrower hereby authorizes Lender to access and review, from time to time, Borrower's SREC Account, and Borrower will provide Lender with all SREC Account information to enable Lender to access and review Borrower's SREC Account.

9.2 Additional Covenants. Except as otherwise permitted in this Agreement or with the prior written consent of Lender, which consent Lender shall not unreasonably withhold, from and after the date of this Agreement, Borrower shall not:

(a) mortgage, pledge, or otherwise encumber or subject to lien or allow 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; or

(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.

9.3 Information: Access to Properties; Books and Records.

(a) Borrower shall make available for inspection, upon reasonable request of and written notice from Lender and at Lender's expense, any and all information related to the Project, 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 in them 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 allow 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 of the Project. No investigation by Lender or any of Lender's representatives under this section shall affect any representation, warranty and/or covenant of any Party to this Agreement.

#### 9.4 Insurance.

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

(i) Liability coverage under a homeowner's insurance policy, with limits not less than: THREE HUNDRED THOUSAND DOLLARS (\$300,000) per occurrence and ONE MILLION DOLLARS (\$1,000,000) annual aggregate, and naming Lender as an additional insured under such policy;

(ii) Property insurance coverage under a homeowner's insurance policy covering, at a minimum, the full replacement costs of the Project, with a \$500.00 per occurrence deductible and naming solely Lender as an additional insured and loss payee; and

(iii) 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) calendar 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.

(e) In the event of a payout under the insurance coverage, 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.

(f) 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.

(g) 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 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 of the Project and all related Equipment shall at all times be maintained and preserved, normal depreciation excepted. If Borrower, in 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, Lender shall have the right to perform these maintenance obligations on behalf of Borrower. Borrower shall immediately reimburse Lender for any money spent by Lender in fulfilling Borrower's maintenance obligations. Borrower shall not permit any Equipment to become affixed to real estate as a fixture as defined under the Uniform Commercial Code.

9.6 Maintenance of Collateral. Borrower will properly protect and maintain the Collateral, and defend the Collateral against any claims and/or demands against it.

9.7 No Other Interests Granted. Except as otherwise disclosed by Borrower to Lender on Exhibit G to this Agreement, Borrower has not executed, will not execute, and has not had or will have executed on his or her behalf, any assignment, pledge, security or other similar agreement or financing statement covering the Collateral, or any portion of it, except to Lender. 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 granted to Lender in the Loan Documents.

9.8 Change in Name. Borrower will notify Lender immediately in writing of any proposed or actual change of Borrower's name or identity.

9.9 Further Assurances. Borrower agrees that upon Lender's request, at any time, Borrower shall take all actions reasonably required to assure 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 in this Agreement.

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 in this Agreement;

(b) any material representation or warranty made by Borrower, 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 of the rights created by this Agreement in violation of its provisions;

(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 his/her creditors; (iv) has a petition in bankruptcy, or other similar relief, filed against his/her, and such petition is not withdrawn or discharged within ninety (90) calendar days after the date of its filing;

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

(g) Borrower commits an Event of Default under any of the Project Documents;

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

(i) Borrower defaults under any obligations to a subordinate lienholder with respect to the Collateral.

#### 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. Following receipt of such notice, Borrower shall have: (i) a five (5) Business-Day period within which to fully cure any Event of Default involving the payment of money; and (ii) a thirty (30) calendar 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 and cannot be fully cured within the thirty-calendar day period, to institute corrective action satisfactory to Lender and to pursue such corrective action diligently, provided that the thirty- calendar day cure period shall not be made available to Borrower if Lender determines, in its sole discretion, that Lender's rights with respect to Borrower and/or Collateral could be materially adversely affected. These provisions regarding 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 the Loan and all accrued and unpaid interest 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 the 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(g), 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 of it; (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 on 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 his/her obligations under this Agreement or, after Borrower's receipt of a written request by Lender to provide adequate assurances of performance, Borrower is likely to breach any of his/her obligations under any of the Loan Documents, Lender may, at the cost and expense of Borrower, take such steps as are necessary to remedy such failure to avoid such breach. Lender is not 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 and payable on the Loan 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, after reasonable notice to the Borrower, enter onto the Facility where the Collateral

may be located, take possession of the Collateral and contemporaneously stabilize the affected area of the roof to prevent leakage. Within seven (7) calendar days thereafter, the Lender will restore the roof in a workman like fashion to reflect the general condition of the roof unaffected by the removal of the Collateral. The costs incurred by Lender under this subparagraph (i) shall be recouped by Lender as set forth in Section 11.4, paragraph "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 then 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 of it, and upon consummation of any such sale Lender shall have the right to assign, transfer and deliver to the purchaser or purchasers 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 Borrower 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 his/her 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 of this Agreement 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 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 or made pursuant to this Agreement and/or the Note 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) calendar 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 above for all notices.

16. Assignment.

16.1. This Agreement may not be assigned by any Party without the prior written consent of the other Party. The non-assigning Party shall be entitled to recover its reasonable costs and expenses, including but not limited to administration and attorney fees in connection with any such assignment. 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 under this Agreement. Subject to the foregoing, this Agreement shall bind and inure to the benefit only of the Parties and their respective successors and permitted assigns.

16.2 If Borrower desires to sell or transfer its ownership or leasehold interest in the Facility to a third party (the "Proposed Transferee"), the Actual Loan Balance shall be paid in full at the closing of such transaction and the Lender's Call Option shall survive for the remainder of the Term. Notwithstanding the foregoing, if the Proposed Transferee desires to assume the Loan, Borrower shall so notify Lender in writing at least ninety (90) calendar days prior to such transfer. Lender shall review the creditworthiness of the Proposed Transferee, the status of the Loan, the operating history of the Project and such other factors as Lender may deem reasonable and appropriate in determining whether to consent to the assignment of the Loan. Lender shall thereafter advise Borrower in writing (i) whether the Loan may be assigned to the Proposed Transferee and (ii) the terms and conditions of the assignment. If Lender does not affirmatively approve the assignment of the Loan to the Proposed Transferee or if the

Proposed Transferee fails to satisfy the terms and conditions of any approved assignment by the closing of the transaction between Borrower and the Proposed Transferee, the Borrower shall pay in full the Actual Loan Balance at such closing, the Lender's Call Option shall survive for the remainder of the Term notwithstanding such closing, and the Lender's Call Option shall be binding upon the Proposed Transferee. Lender shall be entitled to recover its reasonable costs and expenses including but not limited to administration and attorney fees in connection with such assignment.

17. Entire Agreement. This Agreement, together with the schedules and exhibits attached, and the Notes and the other documents and instruments referred to here, sets forth the entire agreement and understanding of the Parties in respect of the transactions contemplated by this Agreement, and supersedes all prior agreement, arrangements and understandings relating to the subject matter of the Agreement.

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.

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, 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. The invalidity or unenforceability of any provision in this Agreement will not affect any other provision.

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. 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, and of Grantor to Secured Party (under the Security Agreement).

27. Joint and Several Obligations. If this Agreement is signed by two or more individuals as Borrower, the obligations of such individuals under this Agreement are joint and several as if each individual executed a separate Agreement in favor of Lender. This Agreement shall be enforceable by Lender against each of or all of such individuals as Lender may elect. Each individual is fully responsible for the entire amount of the Loan and any related amounts due.

IN WITNESS WHEREOF, each Party signed or has caused its duly authorized representative to sign 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)

[By: \_\_\_\_\_]  
(Signature)

[Name: \_\_\_\_\_]  
(Print Name)

**EXHIBIT A**  
**PROMISSORY NOTE**

[To Be Provided]

**EXHIBIT B**

**TRANSACTION CONFIRMATION LETTER**

[To Be Provided]

**EXHIBIT C**

**MEMORANDUM OF OPTION**

[To Be Provided]

**EXHIBIT D**  
**SECURITY AGREEMENT**

[To Be Provided]

**EXHIBIT E**

**BORROWER'S PROGRAM APPLICATION**

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

**EXHIBIT F**

**LOAN AMORTIZATION SCHEDULE**

[below form to be completed]

(1)	(2)	(3)	(4)	(5)	(6)
<u>Payment</u>	<u>Date</u>	<u>SRECs Generated*</u>	<u>Total Payment</u>	<u>Interest Payment</u>	<u>Principal Payment</u>
	Issuance Date				
1	mm/dd/yy	#	\$	\$	\$
2	mm/dd/yy				
3	mm/dd/yy				
4	mm/dd/yy				
5	mm/dd/yy				
6	mm/dd/yy				
:	:				
:	:				
115	mm/dd/yy				
116	mm/dd/yy				
117	mm/dd/yy				
118	mm/dd/yy				
119	mm/dd/yy				
120	mm/dd/yy				

\* "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]