

**SOLAR LOAN  
AND  
SECURITY AGREEMENT**

Dated as of \_\_\_\_\_, 2015

Between

\_\_\_\_\_, as Borrower

and

Public Service Electric and Gas Company, as Lender

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## SOLAR LOAN AND SECURITY AGREEMENT

**THIS SOLAR LOAN AND SECURITY AGREEMENT** ("Agreement") dated as of \_\_\_\_\_, 2015, 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 \_\_\_\_\_, [an] individual[s] residing at [street address,] [City,] New Jersey [Zip] [(collectively, "Borrower") ("Borrower")]. Borrower and Lender are sometimes referred to as, individually, a "Party" and collectively, the "Parties."

### RECITALS

A. The State of New Jersey's Renewable Portfolio Standards ("RPS") mandate that all electricity suppliers provide a percentage of their electricity sales from solar generation. To meet this 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 Energy Certificates ("SRECs"). The SRECs are tracked using the Generation Attribute Tracking System ("GATS") operated by PJM-Environmental Information Services (the "SREC Program Administrator"). An SREC represents one megawatt hour of solar 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.

B. To 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 long term financing for solar-powered generation projects located within Lender's electric distribution service territory. The BPU approved the Program in its Order dated May 31, 2013 in Docket No. EO12080726 (the "2013 Order").

C. Borrower has applied to Lender for term financing for a solar generation project ("Project") to be constructed at Borrower's residence identified in Borrower's Program application (the "Program Application"), located in the Municipality of \_\_\_\_\_, County of \_\_\_\_\_ and State of New Jersey, inscribed on the tax map therefor as Block \_\_\_\_, Lot \_\_\_\_, and located at the street address known as \_\_\_\_\_ (the "Premises").

D. Lender has agreed to provide Borrower with term financing, 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 meanings:

"2013 Order" has the meaning ascribed to such term in the Recitals.

"90% Amount" has the meaning set forth in Section 2.5(b)(i).

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

“Actual Payments” has the meaning set forth in Section 2.5(b)(i).

“Administration Fee” means a fee equal to eighty-five dollars (\$85.00) per kW of installed capacity of the Project, which amount shall be paid by Borrower to Lender at the closing of the Loan as a deduction from the Loan proceeds.

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

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

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

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

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

“Books and Records” has the meaning set forth in Section 5(a)(v).

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

“Borrower’s SREC Account” has the meaning set forth in Section 2.5(c).

“BPU” has the meaning ascribed to such term 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.

“Code” means the Uniform Commercial Code as in force in the State of New Jersey, as amended or superseded at any time and from time to time.

“Collateral” has the meaning set forth in Section 5(a).

“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 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 a day other than the first day of the month, then the first Contract Year will be the remainder of the month in which the Agreement was signed plus a twelve-month period beginning on the first day of the next month and 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, 2014, the first Contract Year would begin on April 7, 2014 and end on April 30, 2015, and the second Contract Year would begin on May 1, 2015 and end on April 30, 2016, continuing thereafter accordingly.

“Customer Agreement” means (a) any agreement between Borrower and any third party related to the development, design, equipment purchase, construction, installation, testing or maintenance of the Project, and (b) any agreement related to the sale of any electric energy generated by the Project.

“Documents” means all instruments, files, records, ledger sheets and documents covering, or relating to, any of the Collateral.

“Environmental Attribute” has the meaning set forth in Section 6(b).

“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 now owned or acquired after the date of this Agreement.

“Event of Default” has the meaning set forth in Section 11.1.

“Floor Price” means \_\_\_\_\_ dollars (\$000.00) per Project SREC.

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

“General Intangibles” has the meaning assigned to such term in the Code.

“Instruments” has the meaning assigned to such term in the Code.

“Interest Rate” has the meaning set forth in Section 2.3.

“Investment Property” has the meaning assigned to such term in the Code.

“kW” means kilowatt, as measured in direct current.

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

“Lender’s SREC Account” means the Lender’s SREC account with the SREC Program Administrator.

“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 in Section 2.1.

“Loan Amortization Schedule” means the amortization schedule attached to the Note.

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

“Market Price” means the most recent clearing price for SRECs of the same vintage as the Project SRECs, which clearing price is obtained from the SREC auction periodically conducted in accordance with the BPU Order dated November 7, 2008, in Docket Number EO07040278 or any subsequent BPU order (the “SREC Auction”). If there is no SREC Auction clearing price for the Project SRECs of a particular vintage, then the Market Price for the Project SRECs will be the auction clearing price for SRECs of the most recent vintage. For example, if there has been no previous SREC Auction clearing price for a 2016 vintage SREC, the Market Price for such SREC will be the most recent auction clearing price for a 2015 vintage SREC. If the SREC Auction is discontinued and the BPU does not approve an alternative SREC sales process, or if the Market Price

cannot otherwise be determined from the SREC Auction, then the Market Price will be determined by Lender in a commercially reasonable manner.

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

“Note” has the meaning set forth 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 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” has the meaning set forth in Section 4(d).

“Party” or “Parties” has the meaning ascribed to such term in the Preamble.

“Permitted Encumbrances” means: (a) 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; (b) 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), including any instrumentality, division, agency, body or department thereof.

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

“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.

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

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

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

“Project Documents” means: (a) a fully executed Customer Agreement (if any); (b) Lien waivers signed by any supplier, vendor or contractor performing work or providing services or equipment to the Project; (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; (g) warranties from Equipment manufacturers or contractors; and (h) any and all other appropriate documents as may be requested by Lender.

“Project SRECs” means the SRECs created by the Project.

“Proposed Transferee” has the meaning set forth in Section 16.2.

“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).

“Regulatory Change” has the meaning set forth in Section 2.9.

“Repayment Election” has the meaning set forth in Section 2.5(c).

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

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

“Security Interest” has the meaning set forth in Section 5(a).

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

“SREC Account” means the electronic account established and maintained with the SREC Program Administrator to track SRECs produced by the Project.

“SREC Processing Fee” means a fee equal to one hundred twenty dollars (\$120.00) per kW of installed capacity of the Project, which amount shall be paid by Borrower to Lender at the closing of the Loan as a deduction from the Loan proceeds.

“SREC Program Administrator” has the meaning ascribed to such term in the Recitals, or any successor to the SREC Program Administrator recognized by the State of New Jersey.

“Term” has the meaning set forth in Section 2.4.

## 2. Loan; General Terms

2.1 Loan. In order to enable Borrower to acquire the ownership and use of the Project, Lender agrees to lend to Borrower a portion of the costs incurred in designing, purchasing and installing the Project in the amount of \_\_\_\_\_ AND 00/100 DOLLARS (\$\_\_\_\_\_), which amount is referred to herein as the “Loan.” At the closing of the Loan, the Administration Fee and the SREC Processing Fee shall be deducted from the Loan and retained by Lender.

2.2 Promissory Note. The Loan shall be evidenced by a secured Promissory Note (“Note”) made by Borrower and delivered to Lender concurrently with the execution of this Agreement.



2.3 Interest Rate. The Loan shall bear interest at the rate of **11.179%** per year, or at a daily rate of 0.0306% (calculated as  $11.179\% \div 365$ ) (the “Interest Rate”). Interest shall be calculated daily and compounded monthly based on the average daily outstanding loan balance (excluding the current month’s accrued interest) *multiplied by* the daily interest rate *multiplied by* the number of days in such month. Regardless of whether the Loan is paid in cash or Project SRECs as provided hereunder, 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 11.179% per year.

2.4 Term. This Agreement shall have a term of ten (10) years from the date hereof (the “Term”). Borrower may prepay the Loan prior to the end of the Term in accordance with the provisions of Section 2.6.

2.5 Repayment of Loan.

(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 can be paid in (i) cash or (ii) the value of the Project SRECs. Following each Quarter, Lender will provide an amortization statement to Borrower showing the amount paid by Borrower in cash and Project SRECs, the current balance of the Loan and the expected balance according to the Loan amortization statement (“Quarterly Amortization Statement”).

(b) Repayment with SRECs. Except as provided in Section 2.5(c), the Loan and accrued interest shall be repaid with Project SRECs, which will be valued at the greater of the Floor Price or the Market Price. At the closing of the Loan and for the duration of the Term, Borrower shall execute such documents as are necessary to assign to Lender all of the Project SRECs until the Loan is repaid in full and do all things necessary to ensure that all Project SRECs are credited to Lender in a timely manner. Borrower shall have a continuing obligation to execute such documents as may be necessary to authorize the SREC Program Administrator to automatically transfer Project SRECs to Lender’s SREC Account. If the value of the Project SRECs exceeds the amount due from Borrower for a period under the Loan Amortization Schedule, Lender will apply such excess amount to the Actual Loan Balance. The application of such excess shall not reduce the periodic payments under the Loan Amortization Schedule except that upon full payment of all amounts due with respect to the Loan, no further periodic payments thereunder shall be required.

(i) Annual True-Up. Lender will perform a true-up at the end of every Contract Year (the “Annual True-Up”). Lender will calculate (a) the aggregate value of the Project 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 thirty (30) days from receipt of written notice from Lender, Borrower will pay Lender in cash an amount (the “Annual True-Up Payment”) equal to the positive difference, if any, between (x) the 90% Amount *minus* (y) the Actual Payments, and such Annual True-Up Payment will be applied to the Actual Loan Balance. Overdue Annual True-Up Payments shall accrue interest at the rate set forth in Section 11.2(c) and, in addition, may be subject to a late fee equal to one percent (1%) of the Actual Loan Balance.

(ii) 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 (the “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) using the Loan Amortization Schedule, determine the scheduled Loan balance (“Scheduled Loan Balance”) for the corresponding period. Within thirty (30) days from receipt of written notice from Lender, Borrower will pay Lender in cash an amount (the “Biennial True-Up Payment”) equal to the positive difference, if any, between (x) the Actual Loan Balance *minus* (y) the Scheduled Loan Balance, and such Biennial True-Up Payment will be applied to the Actual Loan Balance. Overdue Biennial True-Up Payments shall accrue interest at the rate set forth in Section 11.2(c) and, in addition, may be subject to a late fee equal to one percent (1%) of the Actual Loan Balance.

(c) Cash Repayment. Borrower may elect to repay the Loan with cash and must indicate such election in the Loan commitment letter (the “Repayment Election”). The Repayment Election shall be effective for the remainder of the Term unless Borrower submits a revised Repayment Election at least ninety (90) days prior to the end of a Contract Year. Borrower shall not revise its Repayment Election during the Contract Year. If Borrower elects to repay the Loan with cash, Lender will continue to accept delivery of the Project SRECs from the SREC Program Administrator into Lender’s SREC Account. Lender shall promptly thereafter transfer the Project SRECs to Borrower’s SREC account with the SREC Program Administrator (“Borrower’s SREC Account”), which Borrower shall establish at Borrower’s sole cost and expense. Borrower may sell the Project SRECs delivered to Borrower’s SREC Account in accordance with Section 6(a).

(d) All payments with respect to the Loan (whether in cash or Project SRECs) will be credited against the Loan on the last day of the month and will be applied first, to the payment of accrued interest, and second, to the repayment of the principal amount of the Loan.

(e) Within thirty (30) days following the expiration of the Term, Borrower will pay to Lender the Actual Loan Balance (if any), including interest accrued after the expiration of the Term, all calculated in accordance with Section 2.3.

2.6 Prepayment of Loan. Borrower may prepay all or a portion of the Actual Loan Balance at any time during the Term by paying to Lender cash and/or SRECs, which SRECs will be valued at the Market Price.

2.7 Creation of SRECs. Lender will seek to obtain the generation output data from the Project on a monthly basis and report such data to the SREC Program Administrator, which is responsible for creating the Project SRECs. Consistent with the 2013 Order, if Lender is unable to obtain generation output data from the Project for any reason, no data will be reported to the SREC Program Administrator and SRECs will not be created or credited to the Loan until the generation output data is next obtained and reported to the SREC Program Administrator. Borrower may, at Borrower’s sole cost and expense, arrange for the installation of additional revenue-grade metering equipment which is capable of measuring the electricity generated from the Project in accordance with the Program requirements. Lender may use the generation output data from such additional metering equipment to report to the SREC Program Administrator. Borrower will cooperate and do all things necessary to ensure that all Project SRECs are credited to Lender in a timely manner.

2.8 Inspections. Upon written notice to Borrower, Lender (or its designee) may inspect the Project to confirm that Borrower is operating and maintaining the Project in accordance with this Agreement. Borrower shall not rely on Lender's inspection for any purpose and shall be solely responsible for ensuring that the Project is installed, constructed, operated and maintained in accordance with the Customer Agreement. Lender's inspection of the Project or the disbursement of a Loan shall not be deemed to constitute Lender's approval or warranty of the Project, the Equipment or any contractor or vendor and/or its continued operation.

2.9 Regulatory Changes; Acceleration of Loan. If the existing New Jersey regulations governing the Program are amended, suspended and/or otherwise no longer in force (a "Regulatory Change"), Lender may accelerate the repayment of the Actual Loan Balance unless:

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

(ii) The minimum monetary value of the Project SRECs is the Floor Price and 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 Regulatory Change, the BPU continues to allow Lender to enjoy the comparable treatment with regard to those Projects in operation and creating SRECs after the Regulatory Change as Lender enjoyed prior to the Regulatory Change.

3. No Assumption of Liabilities. Lender shall not assume any liabilities and obligations of Borrower of any kind or nature whatsoever, including any liabilities and obligations of Borrower under any of 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 prior to the closing 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: (i) record searches identifying all financing statements, judgments, tax liens and other Liens on file with respect to Borrower in all jurisdictions (state and county) as Lender may deem appropriate, indicating that no Person, other than Lender and any other holders of Permitted Encumbrances, has any Lien on any of the Collateral; (ii) record owner and mortgage lien searches of the real estate records applicable to the Premises; (iii) duly executed Lien waivers or subordinations from contractors, vendors, lienholders, mortgagees, property owners, tenants, and such other persons or entities as Lender shall determine, which shall be in full force and effect, and in form and substance satisfactory to Lender; (iv) satisfactory evidence of all insurance coverage required in this Agreement; and (v) any and all other documents related to the Collateral or Borrower that Lender reasonably requests.

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

(d) Borrower shall have notified Lender in writing that the Project is substantially complete and meets all technical and performance requirements associated with its intended use ("Operation").

(e) Lender shall have received a field inspection report confirming that the Project has achieved Operation and is capable of producing SRECs.

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

(g) If Borrower is repaying the Loan with cash, Borrower shall have opened an SREC Account and provided Lender with the SREC Account name.

(h) If Borrower is repaying the Loan with Project SRECs, Borrower shall have assigned to Lender all rights to receive the Project SRECs.

(i) There is no: (i) 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 not be consummated; or (ii) 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 hereby or thereby that could result in a material and adverse change hereto or thereto.

(j) No Event of Default under any agreement applicable to Borrower has occurred and is continuing or will result from the execution of this Agreement.

(k) The representations and warranties of Borrower contained in this Agreement shall be true and correct as of the date of the closing of the Loan.

(l) The Program, or any successor thereto, remains in effect.

(m) No event shall have occurred since the date of the execution and delivery of the Program Application 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 Borrower's obligations under the Loan Documents and/or the Project Documents.

## 5. Security Agreement.

(a) As security for the full payment and performance of the Obligations, Borrower hereby assigns, transfers, pledges and grants to Lender, and Lender's successors and assigns, a first-priority security interest, lien and pledge in and to all of Borrower's right, title and interest in and to all those assets and properties below described, wherever located, however arising or created, and whether now owned or existing or hereafter arising, created or acquired (collectively, the "Security Interest");

(i) the Project, all Equipment and all other assets related thereto (as well as “fixtures”, as defined under the Code, in the event such Project, Equipment or other assets are deemed to be fixtures notwithstanding the intentions of the Parties hereto, as hereinafter described);

(ii) all Project Documents;

(iii) all SRECs, the SREC Account, all Environmental Attributes, all Investment Property related thereto, all legal and economic attributes of the foregoing, whether now existing or hereafter arising, and all proceeds of the sale of the foregoing;

(iv) all General Intangibles related to the Project and/or the Project Documents, including all causes of action, records, registrations, licenses, franchises, claims under warranties, security interest or other security held or granted to secure performance of the Customer Agreement by the provider of the Equipment, all rights to indemnification and all other intangible property of every kind and nature;

(v) all Documents, computer programs, data processing records, computer software and source codes at any time evidencing, describing, pertaining to or in any way related to the property described in subsections (i) through (iv), inclusive, above (collectively, the “Books and Records”);

(vi) all rights and power of Borrower to transfer greater title than it has with respect to the property described in subsections (i) through (v), inclusive, above; and

(vii) all products, additions, accessions, substitutions and Proceeds of any of the property described above, in any form whatsoever, and any and all proceeds of such Proceeds, including all cash and credit balances, all payments under any indemnity, warranty or guaranty with respect to any such property, all awards for taking by eminent domain, all proceeds of fire, theft or other insurance, including any and all refunds of unearned premiums in connection with any cancellation, adjustment or termination of any insurance policy or policies, any and all proceeds obtained as a result of any legal action or proceeding with respect to any of the foregoing property, and claims by Borrower against third parties for loss or damage to, or destruction of, any of such property.

The property described or referred to in subsections (i) through (vii), inclusive, above, is hereinafter collectively referred to as the “Collateral.”

(b) It is the intention of Borrower and Lender that: (i) all the Collateral shall, at all times, be considered to be personal property, and not a “fixture” as defined under the Code; (ii) to the extent that Collateral may be affixed to the Premises, the Collateral is not intended to be affixed permanently thereto; (iii) to the extent Collateral may be affixed to the Premises, the Collateral shall be removable or severable without materially damaging the Collateral or the Premises; and (iv) the Premises’ use and purpose, prior to any affixation of Collateral thereto, will not be altered by the Collateral or by any affixation of Collateral to the Premises. Notwithstanding the intention of such Parties, Borrower and Lender have elected to file financing statements with respect to the Collateral in accordance with the provisions of Section 5(c) hereof, not only in the Office of the Department of Treasury, Division of Revenue, State of New Jersey, but also in the real property records of the county in which the Premises is located, as an abundance of caution, in case any such Collateral is deemed by a court to be a “fixture.”

(c) Without limiting the foregoing, Lender is hereby authorized to file one or more financing statements, continuation statements, fixture filings and/or any other documents required for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest of Lender, with or without the signature of Borrower, naming Borrower as “debtor” and Lender as “secured party” in each instance thereon.

(d) Borrower, at Borrower’s sole cost and expense, shall execute, acknowledge, deliver and cause to be duly filed any and all such further consents, instruments, certificates and documents and to take any and all such actions Lender, at any time and from time to time, may reasonably request in order to perfect, preserve and protect the Security Interest and the rights and remedies created hereby.

(e) Borrower represents that, as of the date hereof, Borrower’s residence is located at the Premises. Borrower shall not change or permit to be changed the location of Borrower’s residence, unless and until all filings required under the Code or otherwise that are necessary to be made in order to assure and preserve Lender’s Security Interest have been made and Lender has a valid security interest in the Collateral not subject to any Liens other than the Permitted Encumbrances. Borrower shall not remove or relocate the Project and/or the Equipment from the Premises.

(f) The Security Interest and any and all rights of Lender hereunder, and any and all obligations of Borrower hereunder, shall be absolute and unconditional irrespective of: (a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the terms governing said Obligations; (b) any exchange, release or non-perfection of any Collateral, or any release or amendment or waiver of or consent to or departure from any guaranty, for any and all of the Obligations; or (c) any other circumstance that might otherwise constitute a defense available to, or a discharge of, Borrower in respect of the Obligations or in respect of this Agreement.

#### 6. SRECs and Environmental Attributes.

(a) If Borrower has elected to repay the Loan in cash pursuant to Section 2.5(c), Borrower may resell the Project SRECs to a third party so long as Borrower first notifies Lender in writing of the sale price and quantity of Project SRECs to be sold. Within thirty (30) days after the consummation of the sale, Borrower must pay to Lender the entire sale proceeds (less reasonable broker commission) for use towards (i) the payment of all accrued interest on the Loan, then (ii) the amortization of the principal amount of the Loan in the month Borrower receives the sale proceeds.

(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, which may include any successor to an SREC. For the Project, Environmental Attribute represents the general environmental benefit 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 a trading market for such pollutants or benefits exists. Borrower hereby assigns all Environmental Attributes to Lender. Lender will use commercially

reasonable methods to monetize such Environmental Attributes, and use the proceeds to repay the Loan.

7. Representations and Warranties of Borrower.

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

(b) Laws and Regulations. Borrower is not in violation of any 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.

(c) 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 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, if any, are true and complete in all material respects.

(d) Title; Liens or Encumbrances on Project Equipment. Borrower represents that Borrower has rights in and good title to the Collateral and has full power and authority to grant the Security Interest to Lender and perform Borrower's obligations under this Agreement without the approval or any other Person other than any consent or approval that has been obtained. Borrower has neither filed nor had filed against him/her any financing statement under the Code or its equivalent in any jurisdiction regarding any portion of the Collateral except with respect to the Security Interest granted in this Agreement. There are no liens on the Project Equipment other than the Permitted Encumbrances.

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

(f) Purchase Money Security Interest. The security interest granted to Lender by Borrower in the Collateral is a purchase-money security interest. The acquisition of the Project and the financing under this Agreement are related transactions. The purpose of the Loan is to enable the acquisition of the Project. Borrower obtained the commitment of Lender to make the Loan prior to arranging for the purchase and installation of the Project. The amount of the Loan does not exceed Borrower's cost of acquiring the Project.

(g) Validity of Security Interest. The Security Interest granted by Borrower constitutes a valid, legal and, upon the filing of the UCC financing statements, a first-priority perfected security interest in all the Collateral granted by Borrower for payment and performance of the Obligations, and the Collateral granted by Borrower is not subject to any Liens other than the Permitted Encumbrances.

(h) SRECs. The Project SRECs delivered to Lender hereunder were created in compliance with all applicable laws and are eligible for use in complying with the RPS. Borrower shall promptly notify Lender of any change in circumstance which causes the foregoing representation to no longer be true including providing a copy of any notice received from any governmental authority indicating or determining that the Project SRECs are no longer RPS-eligible. Lender shall not be required to pay down the Loan with Project SRECs that are not RPS-eligible.

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 Affirmative Covenants. 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) cause each policy of insurance to provide that Lender shall be entitled to thirty (30) days' prior written notice from the insurer prior to any termination or modification thereof;

(c) manage, operate and maintain the Project 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 the Project in good operating condition, reasonable wear and tear excepted;

(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 including the Collateral 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 any of 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, 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;

(h) authorize Lender to access and review, from time to time, Borrower's Project information on record with the SREC Program Administrator; and



(i) at Borrower's sole cost and expense: (A) take any and all actions necessary to defend Borrower's respective title, rights and interests in and to the Collateral against all Persons and, further, to defend the Security Interest of Lender in the Collateral and the priority thereof against any Lien that is not a Permitted Encumbrance; and (B) advise Lender promptly, in reasonable detail, of any Lien made or asserted against any of the Collateral and of the occurrence of any event that may have an adverse effect on the aggregate value of the Collateral and/or on the Security Interest granted in this Agreement.

9.2 Negative 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 hereof, Borrower shall not:

(a) mortgage, pledge or otherwise encumber or subject to lien, or allow to be encumbered or subjected to lien, or sell, dispose of, or agree to sell or 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 any real or tangible personal property and/or commit to do any of the foregoing;

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

(c) sell or relocate the Project Equipment without the prior written consent of Lender.

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 relating to the Project, including 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 which amounts to, or reasonably will amount to, an Event of Default under Section 11.1, 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 shall maintain the following minimum insurance coverages on the Project and the Collateral:

(i) Liability coverage under a homeowner's insurance policy, with limits of not less than Three Hundred Thousand Dollars (\$300,000) per occurrence and in the aggregate;

(ii) Property insurance coverage under a homeowner's insurance policy which insures the full replacement cost of the Project, with a commercially reasonable deductible; and

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

(b) The insurance shall be issued by a nationally-known insurance 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) Each policy of insurance shall provide that each insurer will provide Lender with written notice thirty (30) days prior to any termination or modification thereof. If Borrower fails to pay any insurance premium, Lender shall have the right (but shall be under no duty) to pay such premiums, and Borrower shall promptly reimburse Lender all costs and expenses reasonably incurred by Lender, together with interest thereon at the Interest Rate. In the event of an insurable loss with respect to the Project, Borrower shall deliver the full replacement cost of the Equipment from the insurance Proceeds to Lender. Borrower hereby authorizes and directs Lender, and Lender shall have the sole discretion, to apply or pay all such Proceeds to (i) the payment of the Obligations, (ii) the restoration or replacement of the property destroyed or damaged, or (iii) Borrower.

(d) Borrower shall provide Lender with Certificates of Insurance acceptable to Lender evidencing the policies, provisions and endorsements listed above as a condition of closing the Loan and, upon request of Lender, during the Term of the Loan.

9.5 Maintenance of Equipment. During the Term, Borrower shall cause the Project and all related Equipment to be operated and maintained in accordance with the Project Documents and manufacturer's specifications. Borrower shall ensure that all necessary repairs and replacements are made so that the value and operating efficiency of the Project shall be maintained and preserved, normal wear and tear excepted. If Lender reasonably determines that Borrower has failed to maintain the Equipment in good operating condition and in accordance with the Project Documents, Lender may undertake the maintenance of the Equipment and Borrower shall reimburse Lender upon demand for all of Lender's reasonable incurred costs and expenses plus interest thereon at the Interest Rate.

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. Borrower shall use reasonable means to ensure that the Equipment is not affixed to real estate in a manner so as to be deemed a "fixture" as defined under the Code.

9.7 No Other Interests Granted. Except for the Permitted Encumbrances, Borrower has not executed, will not execute, and has not had or will not have executed on Borrower's behalf, any assignment, pledge, security or other similar agreement or financing statement covering the Collateral, or any portion of it. 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.

9.10 Use of Proceeds. The proceeds of the Loan will be used to acquire the Project or, if the Project has already been acquired, the proceeds of the Loan will be used to satisfy unpaid obligations of Borrower related to the acquisition.

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

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

(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;

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

(j) any order, judgment or decree for the payment of money which would have a material and adverse effect on the Collateral or the financial condition of Borrower is entered against Borrower, and such order, judgment or decree shall not be satisfied and be in effect for twenty (20) consecutive calendar days without being vacated, discharged, satisfied or stayed or bonded pending appeal;

(k) any lien or encumbrance of any kind or character, other than any Permitted Encumbrances or the Security Interest herein granted, shall attach to the Collateral, or any portion thereof, or any levy, seizure or attachment thereof or thereon; and/or

(l) Lender's Lien on or Security Interest in any of the Collateral becomes unenforceable.

## 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 two-Business Day period within which to fully cure any Event of Default involving the payment of money; and (ii) a thirty-calendar day period within which either to cure any 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 the Collateral could be materially adversely affected. These provisions regarding notice and cure periods shall not apply in the case of Section 11.1(e).

(b) Upon the occurrence of an Event of Default that is not timely cured as per Section 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 lesser of (i) EIGHTEEN PERCENT (18%) per annum and (ii) the maximum rate of interest which may be collected from Borrower under applicable law, 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; (iv) 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; (v)

to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating or pertaining to all or any portion of the Collateral; and (vi) 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 Borrower's 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 Borrower's obligations under any of the Loan Documents, Lender may, at the sole cost and expense of Borrower, take such steps as are necessary to remedy such failure to avoid such breach, however, Lender is not obligated to take any such steps.

(f) Borrower shall reimburse Lender promptly for all reasonable attorneys' fees, costs and expenses Lender incurs in exercising any and all of its remedies, including the costs and expenses incurred by Lender in inspecting Borrower's Books and Records, as per Section 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 a rate equal to the lesser of (i) EIGHTEEN PERCENT (18%) per annum and (ii) the maximum rate of interest which may be collected from Borrower under applicable law, calculated in conformance with Section 2.3, for as long as the Loan remains outstanding.

(i) In the event of a failure of the foregoing remedies, Lender may, after reasonable notice to Borrower, enter onto the Premises, take possession of the Collateral and contemporaneously stabilize the affected area of the roof to prevent leakage. Within seven (7) days thereafter, Lender will restore the roof in a workmanlike 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 "First."

(j) Lender shall be entitled to recover its reasonable costs and expenses including reasonable attorneys' fees in any legal or equitable action resulting from an Event of Default hereunder.

**11.3 Lender's Right to Dispose of Collateral.** Consistent with applicable law, Borrower agrees that Lender shall have the right 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.

11.4 Application of Proceeds. Lender shall apply any Collateral consisting of cash and Proceeds:

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 or any other agreement in connection with the Loan, including all court costs and reasonable attorneys' fees, costs, 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 Borrower's heirs, legal representatives 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 pursuant to a power of sale granted by statute or under a judicial proceeding, the receipt of the consideration by Lender or of the officer making the sale shall be a sufficient discharge to the purchaser of the Collateral so sold and such purchaser 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.

11.5 Lender Appointed Attorney-in-Fact. Upon Borrower's receipt of written notice of an Event of Default pursuant to Section 11.2, Lender is automatically appointed without any further action by Borrower to act as attorney-in-fact on behalf of Borrower for the purposes of carrying out the provisions of this Agreement and taking any action and executing any instrument or other writing which Lender may deem reasonably necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest.

## 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 liability in tort, whether absolute or otherwise), obligations, losses, penalties, claims, suits, costs and disbursements including 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, NJ 07102  
Attention: Solar Loan Program Administrator

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

If to Borrower: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 administration and attorneys' 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 under this Agreement to one or more subsidiaries or affiliates of Lender; or (b) assign its rights to receive moneys and/or SRECs under this Agreement 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 Borrower's ownership or leasehold interest in the Collateral, Project or Premises to a third party (the "Proposed Transferee"), the Actual Loan Balance shall be paid in full at the closing of such transaction. Notwithstanding the foregoing, if the Proposed Transferee desires to assume the Loan, Borrower shall so notify Lender in writing at least ninety (90) 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, Borrower shall pay in full the Actual Loan Balance at such closing. Lender shall be entitled to recover its reasonable costs and expenses including administration and attorneys' fees in connection with such assignment.

17. Entire Agreement. This Agreement, together with the attached schedules and exhibits, if any, and the Note 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 contemplated by this Agreement, and supersedes all prior agreement, arrangements and understandings relating to the subject matter of this 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 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, 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.

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.

28. Waiver of Jury Trial. Each Party hereto hereby waives, to the fullest extent permitted by law, any right it may have to a trial by jury in respect of any litigation or other action directly or indirectly arising out of, under or in connection with this Agreement.

(signatures appear on the following pages)

IN WITNESS WHEREOF, each Party has signed or has caused its duly authorized representative to sign and deliver this Agreement as of the date first above written.

BORROWER:

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Subscribed and sworn to before me on this \_\_\_\_  
day of \_\_\_\_\_, 2015.

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Notary Public

(Lender's signature appears on the following page)

LENDER:

Public Service Electric and Gas Company

By: \_\_\_\_\_  
Joseph A. Forline  
Vice President Customer Solutions