



**PENINSULA CLEAN ENERGY
JPA Board Correspondence**

DATE: June 15, 2016
BOARD MEETING DATE: June 23, 2016
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority Present

TO: Honorable Peninsula Clean Energy Authority Board
FROM: Jan Pepper, Chief Executive Officer, Peninsula Clean Energy Authority
SUBJECT: Loan from Barclays Bank to Finance Peninsula Clean Energy Authority's Operations

RECOMMENDATION:

Adopt a Resolution Authorizing the incurrence by the authority of indebtedness in the form of a loan or loans in an aggregate principal amount not to exceed \$12,000,000 from Barclays Bank PLC, the execution and delivery of a term loan agreement and an account control agreement in connection therewith, the creation of an operating fund account, and certain other related actions.

BACKGROUND:

In December 2015, County staff, on behalf of the Peninsula Clean Energy Authority (PCEA) began to solicit interest from and meet with a number of local and regional banks with the capacity to provide required financing for PCEA.

On May 26, 2016, your Board was presented and updated on the negotiations of terms to obtain a loan from Barclays Bank PLC, in an amount not to exceed \$12,000,000, which will finance certain costs of purchased power and working capital costs of PCEA's operations.

On May 27, the Chief Executive Officer of PCEA signed a preliminary term sheet with Barclays and the underwriting process began to negotiate the final terms of the loan.

DISCUSSION:

The \$12 million loan from Barclays will allow PCEA to establish a reserve fund in support of the power purchase agreements entered into by the PCEA, provide working capital for the pre-revenue collection phase and to account for seasonal differences in cash flow,

fund deposits required by the California Independent System Operator (ISO) and the California Public Utilities Commission, and provide for other working capital-related needs.

The terms and covenants of the loan have been negotiated and are detailed in the loan documents. Barclays also required an opinion from outside counsel regarding validity of the loan. As noted at the last meeting, Norton Rose Fulbright (Norton) was retained on behalf of PCEA for that purpose. Norton attorneys have reviewed the loan documents and will render the required opinion. Some of the main terms and covenants of the loan include:

Amount: Up to \$12 million.

Interest: 1-month LIBOR plus 3.1%.

Collateral: Up to \$6 million cash (50% of loan amount) to be deposited into an account pledged to Barclays and held by Wilmington Trust National Association (Wilmington), a third party trustee approved by Barclay's; and a pledge on PCEA's operating account.

Release of collateral: Collateral will be released proportionate to the amortization of the loan or upon a published or privately issued investment grade credit rating of PCEA from one of the credit rating agencies.

Term: 5 years.

Pre-payment: No pre-payment penalty after first year.

Future indebtedness: Requires bank approval for additional debt, excluding power purchases.

Operating targets: Days cash on hand and debt service coverage ratio.

In order to secure the loan, PCEA will also enter into an Account Control Agreement with Barclays and Wilmington Trust National Association, as custodian. PCEA will be required to deliver and maintain with the custodian the cash collateral (in the amount of 50% of the loan amount) for the benefit and control of Barclays. PCEA will pledge to and grant a first priority security interest in this collateral account held by Wilmington.

Additionally, PCEA will create an operating fund account and grant Barclays a first priority security interest in that account.

It is of note that, in connection with the proposed loan from Barclays and pursuant to provisions of the Joint Exercise of Powers Act, the Board of Supervisors of the County held a public hearing on June 21, 2016. At the conclusion of that hearing, a finding of "significant public benefits" was made in connection with the loan and authorized the

undertaking of the loans by PCEA in accordance with Government Code Section 6586.5(2).

FISCAL IMPACT:

Upon approval, PCEA will be able to draw down funds from a loan in an amount not to exceed \$12 million from Barclay's Bank, PLC to be repaid on or before August 31, 2021.

RESOLUTION NO. _____

**PENINSULA CLEAN ENERGY AUTHORITY, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA**

* * * * *

**RESOLUTION AUTHORIZING THE INCURRENCE BY THE AUTHORITY
OF INDEBTEDNESS IN THE FORM OF A LOAN OR LOANS IN AN
AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$12,000,000 FROM
BARCLAYS BANK PLC; AUTHORIZING THE EXECUTION AND
DELIVERY OF A TERM LOAN AGREEMENT AND AN ACCOUNT
CONTROL AGREEMENT IN CONNECTION THEREWITH; AUTHORIZING
THE CREATION OF AN OPERATING FUND ACCOUNT; AND
AUTHORIZING CERTAIN OTHER RELATED ACTIONS**

RESOLVED, by the Peninsula Clean Energy Authority of the County of San Mateo, State of California, that

WHEREAS, the Peninsula Clean Energy Authority (the “Authority”) was established on February 29, 2016 pursuant to California Government Code Section 6500 *et seq.* (the “Joint Exercise of Powers Act”) and that certain Joint Exercise of Powers Agreement Relating to and Creating the Peninsula Clean Energy Authority of San Mateo County (the “Joint Powers Agreement”); and

WHEREAS, the Authority was established by the County of San Mateo, California (the “County”) and the various cities and towns within the County that are signatories to the Joint Powers Agreement for the purpose, among others, of implementing through the Authority a common community choice aggregation program (the “PCE Program”), an electric service enterprise available to cities and counties pursuant to California Public Utilities Code Sections 331.1(c) and 366.1; and

WHEREAS, in order to provide financing for certain costs of implementation of the PCE Program, the Authority desires to obtain a loan or loans from Barclays Bank PLC (the “Bank”), in the aggregate principal amount not to exceed \$12,000,000 (the “Loans”), which Loans will finance certain costs of purchased power and working capital costs of the PCE Program consistent with the Joint Exercise of Powers Act and the purposes of the Authority as set forth in the Joint Powers Agreement; and

WHEREAS, in connection with the proposed Loans and pursuant to provisions of the Joint Exercise of Powers Act, the Board of Supervisors of the County has heretofore held a public hearing, and upon the conclusion of such hearing, made a finding of “significant public benefits” in connection with the Loans and authorized the undertaking of the Loans by the Authority in accordance with Government Code Section 6586.5(2); and

WHEREAS, Loans will be made available to the Authority by the Bank pursuant to, and subject to the terms and conditions of, a Term Loan Agreement (the “Term Loan Agreement”) by and between the Authority and the Bank; and

WHEREAS, in connection with and as security for the Loans, the Authority is required to create an Operating Fund Account into which all Pledged Revenues (as such term is defined in the Term Loan Agreement) of the Authority will be deposited, and the Authority will pledge to and grant a first priority security interest in such Pledged Revenues and Operating Fund Account to the Bank; and

WHEREAS, in connection with and as security for the Loans, the Authority will enter into an Account Control Agreement (the “Account Control Agreement”) with the Bank and Wilmington Trust, National Association, as custodian, pursuant to which the Authority is required to deliver and maintain with the custodian certain cash Collateral (as such term is defined in the Term Loan Agreement) to or for the benefit and control of the Bank, and the Authority will pledge to and grant a first priority security interest in such Collateral and the Collateral Account held by the custodian pursuant to the terms of the Term Loan Agreement and the Account Control Agreement;

WHEREAS, forms of the Term Loan Agreement and the Account Control Agreement have been filed with the Secretary of the Authority and are presented to this meeting; and

WHEREAS, the Authority has full legal right, power and authority under the laws of the State of California to enter into the transactions hereinafter authorized;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED by the Board of the Directors of the Authority (the “Board”), as follows:

Section 1. Findings. The Board hereby specifically finds and determines that the statements, findings and determinations of the Authority set forth above and in the preambles of the documents approved herein are true and correct.

Section 2. Authorization to Incur Indebtedness. For the purposes set forth in the foregoing recitals, the Board hereby authorizes the incurrence of indebtedness by the Authority in a principal amount not to exceed \$12,000,000 pursuant to terms of the Term Loan Agreement. Each Borrowing Request (as such term is defined in the Term Loan Agreement) made by the Authority to the Bank for funds to be loaned by the Bank to the Authority shall be executed on behalf of the Authority by the Chief Executive Officer of the Authority. Any such signature may be by manual or facsimile signature. Any facsimile signature of the Chief Executive Officer shall be of the same force and effect as if such signature were manual. The Bank’s commitment to make Loans to the Authority pursuant to a Borrowing Request shall have a term not exceeding five years (unless such date has been extended or reduced). The outstanding principal amount of each Loan shall bear interest at the interest rate as set forth in the Term Loan Agreement and shall mature not later than [June 30, 2021]. [Notwithstanding anything to the contrary in the previous sentence or the provisions of this Resolution, the outstanding principal balance of each Loan shall not bear interest in excess of the lesser of (i) twenty-five percent (25%) per annum and (ii) the maximum rate of interest permitted by applicable law.] The terms of the Loans shall,

consistent with this Resolution, be set forth in the Term Loan Agreement. The Authority shall be obligated to repay the Bank for all amounts loaned to the Authority under the Term Loan Agreement and to pay interest on the amounts borrowed under the Term Loan Agreement until such amounts are paid in accordance with the terms of the Term Loan Agreement, and to make other payments to the Bank as provided in the Term Loan Agreement (collectively, the “Obligations”). The Board authorizes the Term Loan Agreement and the Obligations of the Authority to the Bank thereunder.

Section 3. Approval of the Term Loan Agreement. The Term Loan Agreement, proposed to be executed and entered into by and between the Authority and the Bank, in the form presented at this meeting and on file with the Secretary of the Authority, is hereby approved, and any of the Chair of the Board, the Vice Chair of the Board or the Chief Executive Officer of the Authority (each, an “Authorized Officer”), acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Term Loan Agreement in substantially said form, with such changes therein as such officer executing the Term Loan Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The Board hereby authorizes the delivery and performance of the Term Loan Agreement.

Section 4. Approval of the Account Control Agreement. The Account Control Agreement, proposed to be executed and entered into by and among the Authority, the Bank and Wilmington Trust, National Association, as custodian, in the form presented at this meeting and on file with the Secretary of the Authority, is hereby approved, and each of the Authorized Officers, acting singly, is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Account Control Agreement in substantially said form, with such changes therein as such officer executing the Account Control Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof. The Board hereby authorizes the delivery and performance of the Account Control Agreement.

Section 5. [Authorization for Creation of Operating Fund Account. The Board hereby [directs there to be created][ratifies the creation of] a fund of the Authority to be designated the “Operating Fund Account” into which all Pledged Revenues of the Authority pledged to the Bank to secure the payment Obligations of the Authority to the Bank under and pursuant to the terms of the Term Loan Agreement shall be deposited. [All interest, profits and other income received from the investment of moneys in the Operating Fund Account shall be credited to such account. The Authority shall keep or cause to be kept proper books of record and accounts containing complete and correct entries of all transactions made by the Authority relating to the receipt, investment, disbursement, allocation and application of moneys relating to the Operating Fund Account.]]

Section 6. Attestations. The Secretary of the Authority is hereby authorized and directed to attest the signatures of each Authorized Officer to the extent required in connection with the documents approved by this Resolution.

Section 7. Other Actions. Each Authorized Officer, and all officers, agents and employees of the Authority, for and on behalf of the Authority, are hereby authorized and directed, jointly and severally, to do any and all things to effect the execution and delivery of the

Term Loan Agreement and the Account Control Agreement and each Request for Borrowing and to carry out the terms thereof. Each Authorized Officer, and all officers, agents and employees of the Authority, are further authorized and directed for and on behalf of the Authority, to execute all papers, documents, certificates, UCC filings, and other instruments, that may be required in order to carry out the authority conferred by this Resolution, and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 8. Effective Date. This Resolution shall take effect immediately upon its adoption.

* * * * *

TERM LOAN AGREEMENT

Dated June __, 2016

Between

PENINSULA CLEAN ENERGY AUTHORITY

and

BARCLAYS BANK PLC

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TERM LOAN AGREEMENT

THIS TERM LOAN AGREEMENT dated June __, 2016 (as amended, modified or restated from time to time, this “*Agreement*”), between **PENINSULA CLEAN ENERGY AUTHORITY**, a joint powers agency created pursuant to sections 6500 et seq. of the California Government Code (the “*Borrower*”) and **BARCLAYS BANK PLC**, together with any successors and assigns (the “*Bank*”).

RECITALS

WHEREAS, the Borrower has requested that the Bank provide one or more loans to the Borrower for use by the Borrower for purposes consistent with the Act and the purposes of the Borrower as set forth in the Joint Powers Agreement, including for purposes consistent with the community choice aggregation program established by Borrower pursuant to California Public Utilities Code Section 366;

WHEREAS, the Bank has agreed to make the loans, and as a condition to such advances, the Bank has required the Borrower to enter into this Agreement;

NOW, THEREFORE, to induce the Bank to make the loans, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Borrower and the Bank hereby agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

“*Account Control Agreement*” means the Account Control Agreement, dated as of June __, 2016, by and among the Bank, the Borrower and the Custodian.

“*Act*” means the Joint Exercise of Powers Act, California Government Code §§ 6500 et seq., as amended.

“*Adjusted LIBOR Rate*” means, for any day, a per annum interest rate determined pursuant to the following formula:

$$\text{Adjusted LIBOR Rate} = \frac{\text{LIBOR}}{1 - \text{Reserve Percentage}}$$

“*Affiliate*” means, with respect to the Bank, any other Person controlling or controlled by, or under common control with, the Bank. For purposes of this definition, “control,” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting rights, membership, the power to appoint members, trustees or directors, by contract or otherwise.

“*Aggregate Value of the Collateral*” means the sum of all of the Collateral held by the Custodian for the benefit of the Bank.

“*Agreement*” has the meaning set forth in the introductory paragraph hereof.

“*Alternate Rate*” means, for any day, the rate per annum equal to the sum of (i) the Prime Rate for such day minus 100 basis points (1.00%) plus (ii) the Applicable Spread for such day, rounded upward to the fourth decimal place; provided, however, the Alternate Rate shall never be below the Applicable Spread.

“*Amortizing Term Loan*” means any Term Loan issued prior to [____], 2019.

“*Anti-Terrorism Laws*” has the meaning set forth in Section 4.19 hereof.

“*Applicable Spread*” means three hundred and ten basis points (3.10%). **[Note: *Applicable Spread may be adjusted based on changes in credit terms. Terms to follow.*]**

“*Authorized Officer*” means the Chief Executive Officer of the Borrower or any person designated in writing by the Chief Executive Officer of the Borrower to act as an Authorized Officer hereunder.

“*Available Commitment*” means, at any time, the then current Commitment less the principal amount of any Term Loans then outstanding. Any change in the Commitment shall result in the immediate corresponding change in the Available Commitment.

“*Bank*” has the meaning set forth in the introductory paragraph hereto.

“*Bank Agreement*” means any credit agreement, loan agreement, liquidity agreement, standby bond purchase agreement, reimbursement agreement, direct purchase agreement (such as a continuing covenant agreement or supplemental bondholder’s agreement), bond purchase agreement, swap contract or other agreement or instrument under which, directly or indirectly, any Person or Persons undertake to loan, make or provide funds to make payment of, or to purchase, hedge or provide credit enhancement to or on behalf of the Borrower for any Indebtedness of the Borrower.

“*Borrower*” has the meaning set forth in the introductory paragraph hereof.

“*Borrowing Request*” has the meaning set forth in Section 2.01(b) hereof.

“*Business Day*” means any day which is not (i) a Saturday or a Sunday, (ii) a day on which the Lending Office of the Bank is lawfully closed.

“*Cash and Liquid Investments*” means unrestricted cash, cash equivalents, and marketable securities, including without limitation, such amounts constituting board designated funds, held by the Borrower, but excluding: (1) any trustee-held funds; (2) any creditor-held funds; (3) any debt service reserve funds; (4) any self-insurance and captive insurance funds; (5) any pension and retirement funds; (6) the fair market value of collateral posted to secure any swap termination payments under any Swap Contract; (7) proceeds of any short-term

borrowings, including without limitation, internal affiliate loans and draws on lines of credit regardless of the maturity date of such line of credit; (8) proceeds of put debt not supported by a liquidity facility with term-out features; (9) any net cash received from an accounts receivable financing or factoring program during the period for which such calculation is being made; (10) amounts held in the Lockbox Account (as defined in the Security Agreement); and (11) amounts held in the Collateral Account.

“*Code*” means the Internal Revenue Code of 1986, as amended.

“*Collateral*” means collateral in the form of cash held by the Custodian in the Collateral Account pursuant to the Account Control Agreement and pledged to the Bank hereunder.

“*Collateral Account*” means the deposit account no. [_____], which is maintained by the Custodian in the name of the Borrower and is under the control of the Bank, and any replacement account.

“*Collateral Reduction Date*” means any date on which the Bank receives written notice from the Borrower, in form and substance satisfactory to the Bank, and including such evidence as the Bank may require, to the effect that either of Moody’s or S&P has issued a Rating of “Baa3” (or its equivalent) or higher by Moody’s or “BBB-” (or its equivalent) or higher by S&P.

“*Commitment*” means, initially \$12,000,000, as such amount may be reduced pursuant to the terms hereof.

“*Commitment Fee*” has the meaning set forth in Section 2.12.

“*Commitment Fee Rate*” means (i) from and including the Effective Date to and including December 31, 2016, 0.925% per annum and (ii) from and including January 1, 2017 and thereafter, 1.925% per annum.

“*Computation Date*” means the second London Business Day preceding each applicable Rate Reset Date.

“*Custodian*” means Wilmington Trust, National Association and its successors or assigns, including any successor appointed in accordance with the terms hereof.

“*Days Cash on Hand*” for the Borrower as of any date means (1) the Cash and Liquid Investments of the Borrower as of such date, determined in accordance with generally accepted accounting principles, divided by (2) the quotient formed by dividing (a) the Operating Expenses of the Borrower for the twelve (12) consecutive months ended on or before such date by (b) the number of days in such twelve (12) month period.

“*Days Cash on Hand Requirement*” means (i) from and including September 30, 2017 to and including September 30, 2018, 30 days, (ii) from and including October 1, 2018 to and including September 30, 2019, 50 days and (iii) from and including October 1, 2019 and thereafter, 85 days.

“*Days Cash on Hand Threshold*” means (i) from and including September 30, 2017 to and including September 30, 2018, 45 days (except that with respect to the Financial Covenant Determination Date occurring on March 31, 2018, Days Cash on Hand Threshold means 35 days), (ii) from and including October 1, 2018 to and including September 30, 2019, 65 days (except that with respect to the Financial Covenant Determination Date occurring on December 31, 2018 and March 31, 2019, Days Cash on Hand Threshold means 55 days) and (iii) from and including October 1, 2019 and thereafter, 95 days.

“*Debtor Relief Laws*” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

“*Debt Service Coverage Ratio*” means, for each Financial Covenant Determination Date, the ratio determined by dividing (a) the Income Available for Debt Service for the twelve (12) months ending simultaneously with such fiscal quarter by (b) the aggregate of the payments required to be made during the next twelve (12) months in respect of principal (whether at maturity, as a result of mandatory sinking fund redemption, mandatory prepayment or otherwise) and interest on all outstanding Indebtedness of the Borrower (limited to items in clause (a), (f) and (g) of the definition of Indebtedness) ; provided that with respect to the amounts payable in respect of Term Loans under this Agreement, the calculation of Debt Service Requirements shall be based on principal and interest (using an assumed LIBOR rate of 1.50%) scheduled to be due and payable thereon from and including January 1, 2020 to and including December 31, 2020, without regard to the actual amount of principal and interest scheduled to be due and payable during the next (12) months.

“*Debt Service Coverage Ratio Requirement*” means 2.25x.

“*Debt Service Coverage Ratio Threshold*” means 3.25x.

“*Default*” means any event or condition that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“*Default Rate*” means, for any day, the sum of the Prime Rate plus five percent (5.00%).

“*Dollar*” and “*\$*” mean lawful money of the United States.

“*Effective Date*” means June 24, 2016, subject to the satisfaction or waiver by the Bank of the conditions precedent set forth in Article 3.01(a) hereof.

“*ERISA*” means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute thereto.

“*Event of Default*” with respect to this Agreement has the meaning set forth in Section 6.01 of this Agreement.

“*Event of Insolvency*” means, with respect to any Person, the occurrence of one or more of the following events:

(a) the Person shall (i) commence a voluntary case or other proceeding seeking liquidation, reorganization, arrangement, adjustment, winding-up, dissolution, composition or other similar relief with respect to itself or its indebtedness under any bankruptcy, insolvency, reorganization or other similar law for the relief of debtors now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official for it or a substantial part of its property, (ii) consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, (iii) make a general assignment for the benefit of creditors, (iv) fail generally to pay or admit in writing its inability to pay its indebtedness as it becomes due, or (v) take (through an authorized officer or representative) any official action to authorize any of the foregoing; or

(b) any of the following shall occur with respect to such Person: (i) an involuntary case or other proceeding shall be commenced against such Person seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property and either (A) such Person shall consent in writing to such action or (B) such case shall not be dismissed within sixty (60) days, (ii) an order for relief shall be entered against such Person under the federal bankruptcy laws as now or hereafter in effect or pursuant to any other State or federal laws concerning insolvency or of similar purpose, (iii) a final and non-appealable debt moratorium, debt adjustment, debt restructuring or comparable extraordinary restriction with respect to the payment of principal or interest on the indebtedness of such Person shall be declared or imposed pursuant to a finding or ruling by such Person, the United States of America, the State, any instrumentality thereof or any other Governmental Authority of competent jurisdiction over such Person, or (iv) the issuance, under the laws of any state or under the laws of the United States of America, of an order of rehabilitation, liquidation or dissolution of such Person.

“Executive Order” has the meaning set forth in Section 4.24 hereof.

“Expenses” means, for any period, the aggregate of all expenses calculated under GAAP, including without limitation any taxes, incurred by the Borrower during such period, but excluding (a) interest on Indebtedness, (b) depreciation and amortization, (c) any unrealized loss resulting from changes in the value of investment securities, (d) extraordinary expenses and other non-recurring, non-cash expenses (including without limitation losses on the sale of fixed or capital assets other than in the ordinary course of business and losses on the extinguishment of debt), (e) losses resulting from any reappraisal, revaluation or write-down of assets (excluding revaluation of accounts receivable), and (f) any noncash loss or change in the value of a Swap Contract (including any change in the value of the termination value thereof) which loss or change in value is not the result of the expiration or termination (including early termination) of such Swap Contract; provided, however, that the provisions of (a) through (f) notwithstanding, no amount shall be subtracted from expenses more than once.

“Financial Covenant Determination Date” means (i) each March 31, June 30, September 30 and December 31, from and including September 30, 2017, through and including December 31, 2019; and (ii) each June 30 and December 31, from and including June 30, 2020.

“Financing Documents” means the Security Agreement, the Intercreditor and Collateral Agency Agreement and the PPA Account Control Agreement.

“Fiscal Year” means the fiscal year of the Borrower ending on June 30 of each calendar year or such other fiscal year as may be adopted by the Borrower from time to time to the extent permitted hereunder.

“Generally Accepted Accounting Principles” or *“GAAP”* means generally accepted accounting principles in effect from time to time in the United States and applicable to entities such as the Borrower, including, without limitation, those principles set forth in the statements and pronouncement of the Government Accounting Standards Board.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Guarantee” means, for any Person, all guarantees, endorsements (other than for collection or deposit in the ordinary course of business) and other contingent obligations of such Person to purchase, to provide funds for payment, to supply funds to invest in any other Person or otherwise to assure a creditor of another Person against loss.

“Income Available for Debt Service” shall mean, as to any period of time, the excess of Revenues over Expenses of the Borrower for such period.

“Indebtedness” means for any Person (without duplication), all items that would be classified as a liability in accordance with generally accepted accounting principles, including, without limitation, (a) indebtedness or liability for borrowed money, or for the deferred purchase price of property or services (including trade obligations); (b) obligations as lessee under leases which are, should have been, or should be, recorded as capital leases in accordance with generally accepted accounting principles; (c) current liabilities in respect of unfunded benefits under employee benefit, retirement or pension plans; (d) obligations issued for the account of any other Person; (e) all Guarantees, endorsements (other than for collection or deposit in the ordinary course of business) and other contingent obligations to purchase, to provide funds for payment, to supply funds to invest in any other Person or otherwise to assure a creditor against loss; (f) obligations secured by any mortgage, lien, pledge, security interest or other charge or encumbrance on property, whether or not the obligations have been assumed; (g) obligations under Bank Agreements, and (h) obligations under Swap Contracts.

“Indemnitee” has the meaning set forth in Section 7.04(b) hereof.

“*Intercreditor and Collateral Agency Agreement*” means the Intercreditor and Collateral Agency Agreement, dated as of [_____], by and among Wilmington Trust, National Association, the PPA Providers from time to time party thereto and the Borrower.

“*Interest Payment Date*” means (i) the first Business day of each calendar month, (ii) any date on which any Term Loan is prepaid and (iii) the Maturity Date.

“*Interest Period*” means, with respect to each Term Loan, (i) the period from (and including) the date such Term Loan is issued to (but excluding) the next succeeding Interest Payment Date, and (ii) thereafter, each period from (and including) an Interest Payment Date to (but excluding) the next succeeding Interest Payment Date.

“*Joint Powers Agreement*” means that Joint Exercise of Powers Agreement, effective as of [February 29], 2016, by and among the County of San Mateo and each other city and town within the County of San Mateo that is a signatory thereto, pursuant to which the Borrower was established.

“*Laws*” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

“*Lending Office*” means the Bank’s address and, as appropriate, account as set forth on Schedule I, or such other address or account as the Bank may from time to time notify the Borrower.

“*LIBOR*” means, for any Rate Reset Date, the London interbank offered rate for deposits in United States dollars for a period of one month, which rate appears on the Reuters Screen LIBOR01 Page (or such other page as may replace LIBOR01 on that service or such other service as may be nominated by the ICE Benchmark Administration (or any entity that assumes responsibility for determining such rate) as an information vendor for the purpose of displaying such rate for U.S. Dollar deposits) as of 11:00 a.m., London, England time, on the Computation Date immediately preceding such Rate Reset Date, or if such rate is not available, another comparable rate determined by the Bank in its reasonable judgment upon notice thereof provided by the Bank to the Borrower.

“*LIBOR Index Rate*” means a fluctuating rate per annum, determined on each Computation Date for the period from and including the first succeeding Rate Reset Date to but excluding the next succeeding Rate Reset Date thereafter, equal to the sum of (i) the Adjusted LIBOR Rate (as determined on such Computation Date) plus (ii) the Applicable Spread as of such first succeeding Rate Reset Date, rounded upward to the fourth decimal place.

“*Loan Documents*” means, collectively, this Agreement, the Account Control Agreement, the UCC Filings, [_____].

“*London Business Day*” means any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency) in the City of London, United Kingdom.

“*Mandatory Payment Date*” means, with respect to any Amortizing Term Loan, the first Business Day of each January, April, July and October, commencing on the first Business Day of January, 2019.

“*Margin Stock*” shall have the meaning assigned to that term in Regulation U promulgated by the Board of Directors of the Federal Reserve System, as now and hereafter from time to time in effect.

“*Material Adverse Change*” means the occurrence of any event or change resulting in a material and adverse change in the business, condition (financial or otherwise), operations or prospects of the Borrower since June 20, 2016 or which materially and adversely affects the enforceability of this Agreement or any of the Loan Documents or the ability of the Borrower to perform its obligations hereunder or thereunder.

“*Material Adverse Effect*” means: (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent) or condition (financial or otherwise) of the Borrower; (b) a material impairment of the ability of the Borrower to perform its obligations under this Agreement or any of the Loan Documents; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Borrower of this Agreement or any of the Loan Documents.

“*Maturity Date*” means [June 24, 2021].

“*Maximum Interest Rate*” means the lesser of (i) twenty-five percent (25%) and (ii) the maximum rate of interest on the relevant obligation permitted by applicable law.

“*Member*” means the County of San Mateo and each other city and town within the County of San Mateo that is a signatory to the Joint Powers Agreement.

“*Moody’s*” means Moody’s Investors Service, Inc. and any successor rating agency.

“*Nominal Amortization End Date*” means [January 1], 2024; provided that all principal due in connection with each Term Loan shall be paid in full no later than the Maturity Date.

“*Obligations*” means all advances to, and debts and liabilities of, the Borrower arising hereunder or under any of the Loan Documents or otherwise with respect to the Term Loans, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Borrower of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“*OFAC*” has the meaning set forth in Section 4.24 hereof.

“*Operating Expenses*” of the Borrower for any period means the excess, if any, of all operating expenses of the Borrower in such period (including interest expense) over all amounts deducted by such Persons in calculating operating expenses in such period for or to make provisions for property retirement, depreciation, depletion, obsolescence, impairment, allowances for bad or uncollectible debt, and amortization of debt discount, issuance expense, and goodwill, all determined in accordance with GAAP.

“*Operating Fund Account*” means [[_____]], together with any other fund or account held by or for the benefit of the Borrower into which Pledged Revenues or any portion thereof are deposited.]

“*Parity Debt*” means any Indebtedness heretofore or hereafter issued or incurred by the Borrower that is secured by all or a portion of the Pledged Revenues on a parity with the Term Loans and Obligations hereunder.

“*Participant*” has the meaning set forth in Section 7.06(c).

“*Patriot Act*” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107 56 (signed into law October 26, 2001).

“*Person*” means an individual, a corporation, a partnership, an association, a trust or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof.

“*Pledged Revenues*” means the Receivables (as defined in the Security Agreement) and all proceeds thereof, but only to the extent that such Receivables (or proceeds thereof) have been released from the pledge and lien of the Security Agreement in accordance with the terms thereof.

“*Power Purchase Agreement*” has the meaning set forth in the Security Agreement.

“*PPA Provider*” means each seller of Product (as defined in the Security Agreement) under a Power Purchase Agreement that is a party to the Intercreditor and Collateral Agency Agreement.

“*PPA Account Control Agreement*” means the Account Control Agreement, dated as of _____, by and among Wilmington Trust, National Association, as Account Bank, the Borrower and Wilmington Trust, National Association as Secured Party.

“*Prepayment Funding Costs*” has the meaning set forth in Section 2.03(b) hereof.

“*Prime Rate*” means the rate established by Barclays Bank PLC, from time to time as its prime rate, with each change in the Prime Rate being effective from and including the date such change is publicly announced as being effective; provided, however, the Bank may lend to its customers at rates that are at, above or below the Prime Rate.

“*Property*” shall mean any and all rights, titles and interests in and to any and all property, whether real or personal, tangible or intangible and wherever situated.

“*Quarterly Installment Amount*” means, with respect to each Amortizing Term Loan on any Mandatory Payment Date, an amount (rounded upward to the next integral multiple of \$100,000) equal to the quotient obtained by dividing the outstanding principal amount of such Amortizing Term Loan on such Mandatory Payment Date (without giving effect to any payment of principal of such Amortizing Term Loan made on such date) by the number of Mandatory Payment Dates (including the Mandatory Payment Date as to which the Quarterly Installment Amount is being determined) remaining until, and including, the Nominal Amortization End Date; provided, however, that all principal due in connection with each Term Loan shall be paid in full no later than the Maturity Date.

“*Rate Reset Date*” means the first Business Day of each calendar month commencing [July 1], 2016.

“*Rating*” means a rating (which may be published or privately issued) of the Borrower’s obligations hereunder or under any long term unenhanced Parity Debt of the Borrower which rating is issued by a Rating Agency; provided, however, that a rating that is not continuously maintained and subject to surveillance and update by a Rating Agency shall not constitute a Rating hereunder and any rating which ceases to be continuously maintained shall be deemed to have been withdrawn for purposes hereof.

“*Rating Agency*” means any of Moody’s or S&P, as applicable.

“*Required Collateral Percentage*” means [50]%.

“*Reserve Percentage*” means for any day, that percentage (expressed as a decimal) which is in effect from time to time under regulations issued from time to time by the Board of Governors of the Federal Reserve System of the United States for determining the maximum reserve requirement (including, without limitation, any basic, supplemental, emergency, special, marginal or other reserves) applicable with respect to Eurocurrency funding (or against any other category of funding liabilities that includes deposits by reference to which the interest rate of the Term Loans is determined), whether or not the Bank has any Eurocurrency liabilities subject to such reserve requirement at that time. The Term Loans shall be deemed to constitute a Eurocurrency liability and as such shall be deemed subject to reserve requirements without benefit of credit for any prorations, exceptions or offsets that may be available from time to time to the Bank. The Adjusted LIBOR Rate shall be adjusted automatically on and as of the effective date of any change in the Reserve Percentage.

“*Revenues*” means, for any period, the revenues of the Borrower, as determined in accordance with GAAP; but excluding (i) any unrealized gain or loss resulting from changes in the value of investment securities, (ii) any gains on the sale or other disposition of fixed or capital assets not in the ordinary course, (iii) earnings resulting from any reappraisal, revaluation or write-up of fixed or capital assets, (iv) noncash gains or changes in the valuation of Swap Contracts which gain or change in value is not the result of the expiration or termination (including early termination) of such Swap Contracts and (v) any realized gain in excess of 10%

on common and preferred stock during such period (measured by dividing the net realized gains on common and preferred stock for such period by the average of the market value of the common and preferred stock as of the first day and last day of such period).

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, and any successor rating agency.

“Security Agreement” means the Security Agreement, dated as of _____, by and between the Borrower and Wilmington Trust, National Association.

“State” means the State of California.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc. or any International Foreign Exchange Master Agreement, including any such obligations or liabilities thereunder.

“Term Loan” has the meaning set forth in Section 2.01(a) hereof.

“Termination Date” means the earlier to occur of (i) the Maturity Date or (ii) such earlier date on which the Term Loans shall be due and payable in accordance with this Agreement.

“UCC Filings” means [*describe necessary UCC filings with respect to pledge of Pledged Revenues and Operating Fund Account.*]

“United States” and “U.S.” mean the United States of America.

Section 1.02 Other Interpretive Provisions. With reference to this Agreement, unless otherwise specified herein:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any of the Loan

Documents), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "*hereto*," "*herein*," "*hereof*" and "*hereunder*," and words of similar import when used herein, shall be construed to refer to this Agreement in its entirety and not to any particular provision thereof, (iv) all references in this Agreement to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "*from*" means "*from and including*;" the words "*to*" and "*until*" each mean "*to but excluding*;" and the word "*through*" means "*to and including*."

(c) Section headings herein are included for convenience of reference only and shall not affect the interpretation of this Agreement.

Section 1.03 Accounting Terms. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the audited financial statements of the Borrower delivered to the Bank pursuant to Section 5.02(a) hereof, *except* as otherwise specifically prescribed herein.

Section 1.04 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York time (daylight or standard, as applicable).

ARTICLE II

THE TERM LOAN

Section 2.01 The Term Loans; Manner and Disbursement of Term Loans. (a) Subject to the terms and conditions hereof, the Bank agrees to extend credit (the "Credit") to the Borrower until the Termination Date which may be, subject to the conditions herein, drawn by the Borrower from time to time during the period from and including the Effective Date to but not including the date on which the Available Commitment is reduced to zero (the "Commitment Term"), at which time the commitment of the Bank to permit draws under this Agreement shall

expire. The Credit may be drawn by the Borrower during the Commitment Term in the form of loans (individually a “Term Loan” and collectively the “Term Loans”), provided that the aggregate principal amount of Term Loans outstanding at any one time shall not exceed the then current Commitment. Except as otherwise set forth herein, each Term Loan shall bear interest at the LIBOR Index Rate. Each Term Loan shall be in a minimum amount of not less than \$100,000. The Borrower may not re-borrow any portion of a Term Loan in whole or in part following the payment or repayment of any Term Loan and any such payment or repayment, in part or in whole, of any Term Loan shall permanently reduce the Commitment by the amount of such payment or repayment.

(b) The Borrower shall give written notice to the Bank (which notice may be in electronic form) by no later than 12:00 noon on the second (2nd) Business Day (unless the Bank agrees in writing or by email to a shorter period) prior to the date that the Borrower requests the Bank make a Term Loan hereunder. Each such notice shall specify the date of the Term Loan requested (which must be a Business Day at least two (2) (or fewer, if agreed in writing by the Bank) Business Days after the date such notice is delivered to the Bank) and the amount of such Term Loan and each written notice shall be in the form of Exhibit A hereto from an Authorized Representative of the Borrower for whom the Bank has an executed incumbency certificate (each such notice, a “*Borrowing Request*”). The Borrower agrees that the Bank may rely upon any written notice given by any person the Bank in good faith believes is an Authorized Representative of the Borrower without the necessity of independent investigation. The proceeds of each Term Loan shall be made available to the Borrower in immediately available funds, in accordance with the terms of the written disbursement instructions from the Borrower.

Section 2.02 Mandatory Principal Payments. The Borrower shall, on each Mandatory Payment Date, repay the principal amount of each Amortizing Term Loan in installments, each of which shall be equal to the Quarterly Installment Amount on such Mandatory Payment Date; provided, however, that all remaining principal due in connection with each Term Loan (including each Amortizing Term Loan) shall be due and payable in full on the Maturity Date.

Section 2.03 Voluntary Principal Payments. (a) Subject to the terms of Section 2.03(b) and 2.03(c) below, the Borrower may, upon written notice to the Bank, voluntarily prepay any Term Loan, in whole or in part on any Business Day; provided that (i) such notice must be received by the Bank not later than 10:00 a.m. ten (10) Business Days prior to any date of prepayment and (ii) any prepayment shall be in a principal amount of \$250,000 or a whole multiple of \$250,000 in excess thereof or, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment. Upon any prepayment in part of any Term Loan, the prepayment shall be applied first to interest accrued on the prepaid principal or that is past due, any applicable Prepayment Funding Costs, any termination fee pursuant to clause (c) below and any other outstanding and unpaid amounts, and next to the principal component of the Term Loan.

(b) In the event the Bank shall incur any loss, cost, or expense (including, without limitation, any loss, cost, or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired or contracted to be acquired by the Bank to fund or maintain the Term Loans or the Commitment or the relending or reinvesting of such deposits or other funds or

amounts paid or prepaid to the Bank) as a result of any payment of any Term Loan on a date other than a Rate Reset Date for any reason (the “*Prepayment Funding Cost*”), whether before or after default (but excluding any such prepayment resulting from acceleration of the Term Loans by the Bank upon the occurrence of an Event of Default), then upon the demand of the Bank, the Borrower shall pay to the Bank such amount as will reimburse the Bank for such loss, cost, or expense, as determined by the Bank in good faith. If the Bank requests such a reimbursement, it shall provide to the Borrower a certificate setting forth the computation of the loss, cost, or expense giving rise to the request for reimbursement in reasonable detail and such certificate shall be conclusive absent manifest error.

(c) In the event that the Borrower shall prepay in whole or in part any Term Loan prior to the first anniversary of the Closing Date, in addition to all other obligations of the Borrower that may be due and payable at such time, the Borrower agrees to pay to the Bank a termination fee equal to the Applicable Spread which would have been payable to the Bank from (and including) such prepayment date to (but excluding) such first anniversary date, calculated at the time of such termination on the basis of the portion of each Term Loan being prepaid and the then Applicable Spread.

Section 2.04 Interest. (a) Generally. The outstanding principal balance of each Term Loan shall bear interest from and including the date of issuance thereof to but excluding the date such Term Loan is paid in full at a rate per annum equal to the LIBOR Index Rate as determined by the Bank pursuant to Section 2.04(b) hereof, subject to Sections 2.04(d) and 2.04(g) hereof. Interest on each Term Loan shall be paid monthly in arrears on each Interest Payment Date. While any Term Loan bears interest at the LIBOR Index Rate, the Bank shall use its best efforts to send to the Borrower an invoice for the interest on each Term Loan to be due on the succeeding Interest Payment Date at least fourteen (14) days prior to such Interest Payment Date; provided, however, that the failure by the Bank to provide such invoice shall not relieve the Borrower of its obligation to make payment of amounts as and when due hereunder. The Borrower hereby promises to pay interest on each Term Loan at the rates and times specified in this Section 2.04. Each Term Loan shall mature and shall be due and payable by the Borrower in full on the Maturity Date unless such amounts shall become due and payable on an earlier date in accordance with this Agreement. All amounts required to be paid by the Borrower hereunder shall be paid in lawful money of the United States of America in immediately available funds.

(b) LIBOR Index Rate. While the outstanding principal amount of any Term Loan bears interest at a LIBOR Index Rate, the Bank shall determine the LIBOR Index Rate as of each applicable Computation Date, and such rate shall become effective on the Rate Reset Date next succeeding such Computation Date, and interest at such rate shall accrue each day during the applicable Interest Period, commencing on and including the first day of such Interest Period to but excluding the last day of such Interest Period; provided that, (i) for purposes of calculating the initial LIBOR Index Rate with respect to any Term Loan issued on the Effective Date, the Computation Date and the Rate Reset Date applicable solely to such Term Loan until the next succeeding Rate Reset Date shall be the date such Term Loan is advanced hereunder and (ii) for purposes of calculating the initial LIBOR Index Rate with respect to any subsequent Term Loan, the Rate Reset Date applicable solely to such Term Loan (and not to any other outstanding Term Loans) until the next succeeding Rate Reset Date shall be the date such Term Loan is advanced hereunder.

(c) Determination of Interest Rates. Each determination by the Bank of an interest rate shall be conclusive and binding for all purposes, absent manifest error.

(d) Default Rate. Upon the occurrence and during the continuation of any Event of Default, the Term Loans and other Obligations hereunder shall bear interest at the Default Rate, payable on demand.

(e) Maximum Interest Rate. (i) If the amount of interest payable for any period on the Term Loans in accordance with the terms hereof (without regard to the Maximum Interest Rate) exceeds the amount of interest that would be payable thereon for such period had interest for such period been calculated at the Maximum Interest Rate, then interest for such period shall be payable in an amount calculated at the Maximum Interest Rate.

(ii) Any interest on the Term Loans that would have been due and payable for any period but for the operation of the immediately preceding clause (i) shall accrue and be payable as provided in this clause (ii) and shall, less interest actually paid to the Bank for such period, constitute the "Excess Interest Amount." If there is any accrued and unpaid Excess Interest Amount as of any date, then the principal amount of the Term Loans with respect to which interest is payable shall bear interest at the Maximum Interest Rate until payment has been made to the Bank of the entire Excess Interest Amount.

(iii) Notwithstanding the foregoing, on the date on which no amount owed to the Bank hereunder remains unpaid, the Borrower shall pay to the Bank a fee equal to any accrued and unpaid Excess Interest Amount.

(f) Discretion of Bank as to Manner of Funding. Notwithstanding any provision of this Agreement to the contrary, the Bank shall be entitled to fund and maintain its funding of all or any part of the Term Loans hereunder in any commercially reasonable manner, it being understood, however, that for the purposes of this Agreement all determinations hereunder shall be made as if the Bank had actually funded and maintained the Term Loans during each Interest Period applicable thereto through the purchase of deposits in the relevant market in the amount of the Term Loans, having a maturity corresponding to such Interest Period.

(g) Absence of LIBOR Funding.

(i) *Circumstances Affecting LIBOR Index Rate Availability.* If for any reason (A) the Bank shall determine (which determination shall be conclusive and binding absent fraud or manifest error) that Dollar deposits are not being offered to banks in the London interbank Eurodollar market for the applicable amount of any Term Loan, or (B) the Bank shall determine (which determination shall be conclusive and binding absent fraud or manifest error) that reasonable and adequate means do not exist for ascertaining LIBOR for any Interest Period with respect to any Term Loan, then the Bank shall promptly give notice thereof to the Borrower. Thereafter, each such Term Loan shall automatically convert to bear interest at the Alternate Rate until the circumstance or condition requiring such conversion to the Alternate Rate ceases to apply or exist.

(ii) *Laws Affecting LIBOR Index Rate Availability.* If, after the date hereof, the enactment or effectiveness of, or any change in, any applicable Law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by the Bank (or any of its lending offices) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for the Bank (or any of its lending offices) to honor its obligations hereunder to make or maintain the Term Loans with the LIBOR Index Rate applicable, the Bank shall promptly give notice thereof to the Borrower. Thereafter, each Term Loan shall automatically convert to bear interest at the Alternate Rate until the circumstance or condition requiring such conversion to the Alternate Rate ceases to apply or exist.

Section 2.05 Computation of Interest and Fees; Payments. (a) Computations of interest on the Term Loans shall be made on the basis of a 360-day year for the actual days elapsed. All computations of fees shall be made on the basis of a 360-day year for the actual days elapsed. Interest shall accrue on each Term Loan for the day on which the Term Loan is made, and shall not accrue on such Term Loan, or any portion thereof, for the day on which such Term Loan or such portion is paid. Each determination by the Bank of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) Interest on each Term Loan shall be paid by the Borrower on each Interest Payment Date; *provided* that accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) All payments by the Borrower hereunder shall be made to the Bank, at the Lending Office, in Dollars and in immediately available funds not later than 3:00 p.m. on the date specified herein. All payments received by the Bank after 3:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, provided that such extension of time shall be reflected in computing interest or fees, as the case may be.

(d) The Borrower agrees to pay the Bank, upon demand, interest on any and all amounts owed by the Borrower under this Agreement from the date such amounts are due and payable but not paid until payment thereof in full, at an interest rate per annum equal to the Default Rate.

Section 2.06 Administrative Fees. The Borrower shall pay to the Bank a fee for each amendment to this Agreement or any of the Loan Documents made at the request of the Borrower in a minimum amount of \$2,500 plus the reasonable fees and expenses of counsel to the Bank. The Borrower shall pay to the Bank a fee for each waiver or consent relating to this Agreement or any of the Loan Documents in an amount to be mutually agreed upon between the Borrower and the Bank plus the reasonable fees and expenses of outside counsel to the Bank.

Section 2.07 Evidence of Debt. The Term Loans shall be evidenced by one or more accounts or records maintained by the Bank in the ordinary course of business. Any failure to so

record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations.

Section 2.08 Obligations Absolute. The payment obligations of the Borrower under this Agreement shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including without limitation the following:

(a) any lack of validity or enforceability of this Agreement or any of the Loan Documents;

(b) any amendment or waiver of or any consent to departure from all or any of this Agreement or any of the Loan Documents;

(c) the existence of any claim, set off, defense or other right which the Borrower may have at any time against the Bank or any other Person, whether in connection with this Agreement or any of the Loan Documents, the transactions contemplated herein or therein or any unrelated transaction; or

(d) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

Section 2.09 Yield Protection. (a) Reserves. If after the Effective Date, the Bank or any Participant shall have determined that the adoption or implementation of any change in any law, rule, treaty or regulation or any policy, guideline, or directive of, or any change in the enforcement, interpretation, implementation, or administration thereof by, any court, central bank, or other administrative authority or Governmental Authority or compliance by the Bank or any Participant with any request or directive of any such court, central bank, or other administrative authority or Governmental Authority (in each case, whether or not having the force of law) (a "Change in Law"), shall at any time (i) impose, modify or deem applicable any reserve, special deposit or similar requirement (including, without limitation, pursuant to Regulation D of the Board of Governors of the Federal Reserve System) against credits or commitments to extend credit extended by, or assets (funded or contingent) of, deposits with or for the account of, or other acquisitions of funds or bonds by the Bank or any Participant, (ii) subject credits or commitments to extend credit extended by the Bank or any Participant to any assessment or other cost imposed by the Federal Deposit Insurance Corporation or any successor thereto or the Prudential Regulation Authority or the Financial Conduct Authority or any successor thereto, (iii) change the basis of taxation of payments to the Bank or any Participant of any amounts payable hereunder (except for taxes on the overall net income of the Bank or any Participant), or (iv) impose on the Bank or any Participant any other or similar condition regarding this Agreement, the commitment or obligations of the Bank or any Participant hereunder, and the result of any event referred to in clause (i), (ii), (iii) or (iv) above shall be to increase the cost to the Bank or any Participant of agreeing to issue, issuing or maintaining the Term Loan or to reduce the amount of any sum received or receivable by the Bank or any Participant hereunder, then, upon demand by the Bank, the Borrower shall pay to the Bank for its account, or that of any such Participant as may be applicable, such additional amount or amounts as will compensate the Bank or such Participant for such increased costs or reductions in amount.

(b) Capital Charges. If after the Effective Date, the Bank or any Participant shall have determined that the adoption or implementation of any Change in Law shall impose, modify or deem applicable any capital adequacy or similar requirement (including, without limitation, a request or requirement that affects the manner in which the Bank or any Participant allocates capital resources to its commitments) that either (i) affects or would affect the amount of capital to be maintained by the Bank or such Participant or (ii) reduces or would reduce the rate of return on the Bank's or such Participant's capital to a level below that which the Bank or such Participant could have achieved but for such circumstances (taking into consideration the policies of the Bank or such Participant with respect to capital adequacy) then, upon demand by the Bank for its own account or that of such Participant as may be applicable, the Borrower shall pay to the Bank for its own account, or such Participant, as applicable, such additional amounts as will compensate the Bank or such Participant for such event such that the Bank or such Participant shall enjoy the same economic benefit that the Bank or such Participant would have enjoyed if such event had not occurred.

(c) Notwithstanding anything contained in this Agreement to the contrary, for purposes of this Agreement (i) all statutes, regulations, requests, rules, guidelines or directives enacted, adopted, issued, implemented or promulgated in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act shall be deemed to be a change in law regardless of the date enacted, adopted, issued or promulgated, and (ii) all statutes, regulations, requests, rules, guidelines or directives enacted, adopted, issued or promulgated by the Bank for International Settlements, the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) or any Governmental Authority shall be deemed a Change in Law regardless of the date enacted, adopted, issued, implemented or promulgated.

(d) All payments of amounts referred to in clauses (a) and (b) above shall be paid by the Borrower to the Bank within thirty (30) days of such demand. A certificate as to such increased cost, increased capital, or reduction in return incurred by the Bank or any Participant as a result of any event mentioned in clause (a) or (b) of this subsection setting forth, in reasonable detail, the basis for calculation and the amount of such calculation shall be submitted by the Bank to the Borrower simultaneously with such demand for payment and shall be conclusive as to the amount thereof absent manifest error. In making the determinations contemplated by the above referenced certificate, the Bank or any such Participant may make such reasonable estimates, assumptions, allocations and the like that the Bank or such Participant in good faith determines to be appropriate. The obligations of the Borrower under this Section 2.09 shall survive the termination of this Agreement.

(e) Notwithstanding anything contained in clause (a) or clause (b) above, the Borrower shall not be required to compensate the Bank pursuant to this section for any increased costs, increased capital or reduction in return incurred more than one hundred eighty (180) days prior to the date that the Bank notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of the Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs, increased capital or reduction in return is retroactive, then the one hundred eighty (180) day period referred to above shall be extended to include the period of retroactive effect thereof.

(f) Third Party Beneficiaries. The benefits of this Section 2.09 shall be available to each assignee of the Bank and each Participant; provided, however, that no assignee or Participant shall be entitled to receive (nor shall the Bank be entitled to receive on behalf of any assignee or Participant) any greater payment under this Section 2.09 than the Bank would have been entitled to receive without regard to any such assignment or participation unless any such assignment or participation is made with the express written consent of the Borrower.

Section 2.10 Withholding. All payments by or on behalf of the Borrower under this Agreement shall be made without counterclaim, setoff, condition or qualification, and free and clear of, and without deduction or withholding for, or by reason of any present or future taxes, levies, imposts, deductions or charges of any nature whatsoever; excluding, however, taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being referred to as "Taxes"). If requested, the Bank, any assignee and any Participant, from time to time, shall provide the Borrower and the United States Internal Revenue Service (to the extent such information and forms may be lawfully provided by the Bank or such assignee or Participant) with such information and forms as may be required by the Treasury Regulations Section 1.1441 (C.F.R.) or any other such information and forms as may be necessary to establish that the Borrower is not subject to any withholding obligation under Section 1442 or other comparable provisions of the Code. If as a result of a change of Law, the Borrower shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder to the Bank, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.10) the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If the Borrower shall make any payment under this Section 2.10 to or for the benefit of the Bank with respect to Taxes and if the Bank shall claim any credit or deduction for such Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States, then the Bank shall pay to the Borrower an amount equal to the amount by which such other taxes are actually reduced; provided, however, that the aggregate amount payable by the Bank pursuant to this sentence shall not exceed the aggregate amount previously paid by the Bank with respect to such Taxes. All of the Borrower's obligations under this Section 2.10 shall survive the termination of this Agreement and the repayment in full of the Term Loans.

Section 2.11 Other Taxes. To the extent permitted by law, the Borrower agrees to indemnify and hold the Bank harmless (on a net after-tax basis) from any present or future claim or liability for stamp, transfer, documentary, excise or other similar tax and any penalties or interest with respect thereto, which may be assessed, levied or collected by any government authority in connection with the execution, delivery, performance, filing and recording of, or any payment made under, this Agreement or the Loan Documents, or any amendment hereto or thereto and any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees.

Section 2.12 Commitment Fee. The Borrower hereby agrees to pay to the Bank in arrears semiannually on the first Business Day of each January and July (commencing on the first Business Day of January, 2017) and on the Termination Date, for each day for which such fee has not yet been paid, a non-refundable commitment fee (the “Commitment Fee”) in an amount equal to the product of the weighted average of the daily unused portion of the Commitment during such period and the rate per annum equal to the Commitment Fee Rate. Such Commitment Fee shall be payable in immediately available funds and computed on the basis of a year of 360 days and the actual number of days elapsed.

Section 2.13 Reduction of Available Commitment. The Borrower shall have the right to reduce all or any portion of the Available Commitment at any time and for any reason by providing written notice to the Bank thereof. Upon any such reduction, the Commitment shall be permanently reduced by the amount specified.

Section 2.14 Pledge and Security. (a) The Borrower hereby conveys, grants, pledges and assigns to the Bank and its successors and assigns a first priority security interest in (i) the Pledged Revenues and (ii) the Operating Fund Account to secure all of the Obligations (including, without limiting the foregoing, payments of principal of and interest on each Term Loan) of the Borrower hereunder.

(b) The Borrower hereby agrees to deliver Collateral to or for the benefit of the Bank in accordance with the provisions of Section 5.29 hereof and the Account Control Agreement. The Borrower hereby conveys, grants, pledges and assigns to the Bank and its successors and assigns a first priority security interest in (i) the Collateral and (ii) the Collateral Account to secure all of the Obligations (including, without limiting the foregoing, payments of principal of and interest on each Term Loan) of the Borrower hereunder.

(c) Notwithstanding any other provision of this Agreement or any other Loan Document to the contrary, the Borrower hereby acknowledges and agrees that payment of all Obligations (including, without limiting the foregoing, payments of principal of and interest on each Term Loan) is a general obligation of the Borrower secured by a first priority lien on the Pledged Revenues and the Operating Fund Account and upon the Collateral posted by the Borrower pursuant to the terms hereof and subject to the Account Control Agreement. The Bank acknowledges that the Obligations of the Borrower hereunder are solely obligations of the Borrower and are not debts, liabilities or obligations of any of the Members and no taxing power of any of the foregoing is pledged therefor. The Borrower has no taxing powers.

ARTICLE III

CONDITIONS PRECEDENT TO CREDIT EXTENSION

Section 3.01 Conditions of Credit Extension. The obligation of the Bank to advance the initial Term Loan hereunder is subject to the following conditions precedent.

(a) The Bank shall have received, on or before the Effective Date, the items listed below, each dated and in form and substance as is satisfactory to the Bank:

(i) copies of the resolutions of the Borrower approving the execution and delivery of this Agreement and the Loan Documents and the other matters contemplated hereby and thereby, certified by the Authorized Officer of the Borrower as being a true and complete copy thereof and in full force and effect on the Effective Date;

(ii) a certificate by an Authorized Officer of the Borrower, delivered to the Bank at least two (2) Business Days prior to the Effective Date, certifying the names and signatures of the persons authorized to sign, on behalf of the Borrower, this Agreement, the Loan Documents and each Borrowing Request;

(iii) unaudited internally-produced cash flow and balance sheet projections of the Borrower;

(iv) originals (or copies certified to be true copies by the Borrower) of all governmental and regulatory approvals, if any, at the time required to be obtained by the Borrower with respect to this Agreement and the Loan Documents and the transactions contemplated hereby and thereby, together with a list of any approvals still to be received, if any;

(v) an executed original of this Agreement and each of the Loan Documents;

(vi) an opinion of Norton Rose Fulbright LLP, special counsel to the Borrower, or other counsel acceptable to the Bank, addressed to the Bank or on which the Bank is otherwise expressly authorized to rely, as to the due authorization, execution, delivery and enforceability of this Agreement and each of the Loan Documents, perfection of each security interest created hereunder and such other matters as the Bank may reasonably request;

(vii) a certificate dated the Effective Date and executed by an Authorized Officer certifying (i) that there has been no event or circumstance since January 1, 2016, that has had or could be reasonably expected to have, either individually or in the aggregate, a material adverse effect upon the operations, business, properties, liabilities or financial condition of the Borrower, (ii) that the representations and warranties contained in Article IV hereof are true and correct in all material respects on the Effective Date and (iii) no event has occurred and is continuing, or would result from entry into this Agreement or any of the Loan Documents, which would constitute a Default or Event of Default;

(viii) an executed United States Internal Revenue Service Form W-9 with respect to the Borrower;

(ix) the executed Borrowing Request delivered to the Bank at least two (2) Business Days prior to the Effective Date; and

(x) a written description of all actions, suits or proceedings pending or threatened against the Borrower in any court or before any arbitrator of any kind or before or by any Governmental Authority and such other statements, certificates,

agreements, documents and information with respect thereto as the Bank may reasonably request.

(b) On or prior to the date of the advance of the initial Term Loan, the Bank shall have received reimbursement (or direct payment) of the Bank's fees and expenses (including the reasonable legal fees and expenses of McDermott Will & Emery LLP, not to exceed \$47,500) and any other reasonable fees incurred in connection with the transaction contemplated by this Agreement and the Loan Documents; and

(c) All other legal matters pertaining to the execution and delivery of this Agreement and the Loan Documents shall be satisfactory to the Bank and its counsel, and the Bank shall have received such other statements, certificates, agreements, documents and information with respect to the Borrower and matters contemplated by this Agreement as the Bank may reasonably request.

Section 3.02 Conditions Precedent to each Subsequent Term Loan. The obligation of the Bank to advance each subsequent Term Loan is subject to the further conditions precedent that:

(a) The Bank shall have received the executed Borrowing Request at least two (2) Business Days prior to the requested date of issuance of such Term Loan (the "Requested Issuance Date").

(b) The Bank shall have received, on or before the Requested Issuance Date, in form and substance as is satisfactory to the Bank, a certificate dated the Requested Issuance Date and executed by an Authorized Officer certifying (i) that the representations and warranties contained in Article IV hereof are true and correct in all material respects on the Requested Issuance Date and (ii) no event has occurred and is continuing, or would result from issuance of the requested Term Loan, which would constitute a Default or Event of Default.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

The Borrower makes the following representations and warranties to the Bank as of the date hereof:

Section 4.01 Existence and Power. The Borrower (i) is a joint powers agency created pursuant to the Act, (ii) has full power and authority to own its properties and carry on its business as now conducted, and (iii) has full power and authority to execute (or adopt, if applicable), deliver and perform its obligations under this Agreement and the Loan Documents and to borrow hereunder.

Section 4.02 Regulatory Authority. The Borrower is duly authorized to conduct its business and activities under all applicable laws, rulings, regulations and ordinances and the departments, agencies and political subdivisions governing it or regulating its business and activities, and the Borrower has obtained all material and requisite approvals of the State and of federal, regional and local governmental bodies required to be obtained in connection with the

execution and delivery of this Agreement and the other Loan Documents prior to the date of the execution and delivery of this Agreement and the Loan Documents.

Section 4.03 Noncontravention. The execution and delivery by the Borrower of this Agreement and the Loan Documents and the performance of its obligations hereunder and thereunder, does not and will not violate any existing law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Borrower or any of its assets, or result in a breach of any of the terms of, or constitute a default under or result in the creation or imposition of any lien on, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Borrower is a party or by which it or any of its property is bound or the Act, its bylaws (if any), or any of the rules or regulations applicable to it or its property or any decree or order of any court or other governmental body.

Section 4.04 Due Authorization. The execution, delivery and performance by the Borrower of this Agreement and the Loan Documents are within its corporate power and authority, and have been duly authorized by all necessary action and will not contravene any provision of the Act or its bylaws (if any).

Section 4.05 Valid and Binding Obligations. This Agreement and each of the Loan Documents is a valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms.

Section 4.06 Pending Litigation and Other Proceedings. There is no action, suit or proceeding by or before any court, arbitrator or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, pending or, to the Borrower's knowledge, threatened action or proceeding affecting or involving the Borrower or any of its business, properties, revenues or assets before any court, governmental agency or arbitrator which, if adversely determined, could result in a Material Adverse Effect (in the reasonable judgment of the Borrower), or otherwise adversely affect (A) the validity or enforceability of this Agreement or any of the Loan Documents, or (B) the status of the Borrower as a joint powers agency created pursuant to sections 6500 et seq. of the California Government Code, validly existing under the laws of the State.

Section 4.07 [Reserved.]

Section 4.08 Financial Projections. The projected balance sheet of the Borrower as provided to the Bank on May 23, 2016 and the related statement of revenues and expenses fairly present the Borrower's expectation of its future financial condition, changes in financial position and results of operations at such dates and for such periods as set forth therein. Since May 23, 2016 there has been no material adverse change (in the reasonable judgment of the Borrower) in the business, assets, revenues, properties, condition (financial or otherwise) or operations, present or prospective, of the Borrower not otherwise disclosed to the Bank in writing prior to the Effective Date.

Section 4.09 Complete and Correct Information. All information, reports and other papers and data with respect to the Borrower furnished to the Bank or its counsel by the Borrower were, taken in the aggregate and at the time the same were so furnished, complete and

correct in all material respects. No fact is known to the Borrower which materially and adversely affects or in the future may (so far as it can foresee) materially and adversely affect the business, revenues, properties, assets or liabilities, financial condition, results of operations of the Borrower, or any of its business prospects which has not been set forth in the financial statements referred to in Section 4.08 or in such information, reports, papers and data or otherwise disclosed in writing to the Bank by the Borrower. When taken in the aggregate, no document furnished or statement made by the Borrower in connection with the negotiation, preparation or execution of this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained therein not misleading.

Section 4.10 Pending Legislation and Decisions. There is no amendment, or to the knowledge of the Borrower, proposed amendment to the Constitution of the State or any State law or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, which would materially adversely affect the Borrower's obligations under this Agreement or the Loan Documents, or the Borrower's ability to pay when due its obligations under this Agreement.

Section 4.11 Default. No Default or Event of Default has occurred and is continuing with respect to the Borrower.

Section 4.12 Employee Benefit Plan Compliance. The Borrower has no funding deficiency with respect to any employee benefit plan and is otherwise in compliance with terms of any such plan in which the Borrower or any of its employees participate in. Neither the Borrower nor any employee benefit plan maintained by the Borrower is subject to the Employee Retirement Income Security Act of 1974, as amended.

Section 4.13 [Reserved.]

Section 4.14 Sovereign Immunity. The Borrower is not entitled to immunity from legal proceedings to enforce this Agreement or any other Loan Document to which the Borrower is a party (including, without limitation, immunity from service of process or immunity from jurisdiction of any court otherwise having jurisdiction) and is subject to claims and suits for damages in connection with this Agreement or any other Loan Document to which the Borrower is a party.

Section 4.15 Usury. The terms of this Agreement regarding the calculation and payment of interest and fees do not violate any applicable usury laws. The obligations of the Borrower hereunder are not subject to any limitation as to maximum rate of interest payable to regulated financial institutions.

Section 4.16 Federal Reserve Board Regulations. The Borrower will not use any part of the proceeds of the Term Loans and has not incurred any indebtedness to be reduced, retired or purchased by the Borrower out of such proceeds, for the purpose of purchasing or carrying any Margin Stock, and the Borrower does not own and will not acquire any such Margin Stock.

Section 4.17 Investment Company Act. The Borrower is not an “investment company” or a company “controlled” by an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.

Section 4.18 No Proposed Legal Changes. To the best knowledge of the Borrower, there is no proposed amendment to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any proposition or referendum (or proposed proposition or referendum) or other ballot initiative or any legislation that has passed either house of the State legislature, or any published judicial decision interpreting any of the foregoing, the effect of which could reasonably be expected to result in a Material Adverse Change.

Section 4.19 No Outstanding Indebtedness. The Borrower has no outstanding Indebtedness other than a loan from the County of San Mateo currently outstanding in the principal amount of \$2,980,000; provided that the Borrower has a separate line of credit available to it from the County of San Mateo in an amount not to exceed \$6,000,000.

Section 4.20 Loan Documents. Each of the Loan Documents is (or upon execution and delivery on even date herewith will be) in full force and effect. No Event of Default and no event which, with the giving of notice, the passage of time or both, would constitute an Event of Default, presently exists under any of the Loan Documents. Neither the Borrower nor any other party under the Loan Documents has waived or deferred performance of any material obligation under any such Loan Document.

Section 4.21 Incorporation of Representations and Warranties. The Borrower hereby makes to the Bank the same representations and warranties made by the Bank in each Loan Document, which representations and warranties, together with the related definitions of terms contained therein, are hereby incorporated by reference with the same effect as if each and every such representation and warranty and definition were set forth herein in its entirety. No amendment to or waiver of such representations and warranties or definitions made pursuant to the relevant Loan Documents shall be effective to amend such representations and warranties and definitions as incorporated by reference herein without the prior written consent of the Bank.

Section 4.22 Collateral. (a) The Borrower has the power to grant a security interest in and lien on any Collateral it transfers as the pledgor under the Account Control Agreement and has taken all necessary actions to authorize the granting of that security interest and lien;

(b) it is the sole owner of or otherwise has the right to transfer all Collateral it transfers to or for the benefit of the Bank under the Account Control Agreement, free and clear of any security interest, lien, encumbrance or other restrictions other than the security interest and lien granted hereunder and under the Account Control Agreement; and

(c) upon the transfer of any Collateral to or for the benefit of the Bank under the terms hereof and subject to the Account Control Agreement, the Bank will have a valid and perfected first priority security interest therein.

Section 4.23 Parties to the Joint Powers Agreement. Each of the entities identified on Exhibit D hereto is currently a Party (as defined in the Joint Powers Agreement).

Section 4.24 Anti-Terrorism Laws. The Borrower is not in violation of any Laws relating to terrorism or money laundering (“*Anti-Terrorism Laws*”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “*Executive Order*”), and the Patriot Act;

(a) The Borrower is not any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which the Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order; or

(v) a Person that is named as a “specially designated national and blocked person” on the most current list published by the Office of Foreign Asset Control (“*OFAC*”) or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list;

(b) The Borrower does not (i) conduct any business or engage in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (a)(ii) above, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

ARTICLE V

COVENANTS

As long as this Agreement is in effect, and until all amounts payable hereunder are paid in full, the Borrower will perform and observe the covenants set forth below, unless the Bank shall otherwise consent in writing:

Section 5.01 Compliance With Laws and Regulations. The Borrower shall comply with all laws, ordinances, orders, rules and regulations of duly constituted public authorities which may be applicable to it, its revenues, assets or properties, the failure to comply with which could be reasonably expected to result in a Material Adverse Change.

Section 5.02 Reporting Requirements. The Borrower shall keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to the business and affairs of the Borrower on a consolidated or combined basis in accordance with generally accepted accounting principles consistently applied. The Borrower will deliver to the Bank either in hard copy or by electronic mail to xramunicipalcovenant@barclayscapital.com (or such other email address as shall be directed from time to time by the Bank):

(a) *Annual Financial Statements.* As soon as available, and in any event within one hundred eighty (180) days after the close of each Fiscal Year of the Borrower, commencing with the Fiscal Year ending June 30, 2017, the complete audited financial statements of the Borrower including the balance sheet as of the end of such Fiscal Year and the related statements of revenues, expenses and cash flows and changes in fund balance for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the preceding Fiscal Year all in reasonable detail, certified and prepared by an independent certified public accountant in accordance with generally accepted accounting principles, consistently applied.

(b) *Quarterly Financial Statements.* As soon as available, and in any event within forty-five (45) days after the last day of each of each quarter of each Fiscal Year of the Borrower, the unaudited financial statements of the Borrower including the balance sheet as of the end of such quarter and a statement of income and expenses, all in reasonable detail and certified, subject to year-end adjustment, by an Authorized Officer of the Borrower.

(c) *Certificate of Compliance.* Simultaneously with the delivery of each set of financial statements referred to in Section 5.02(a), a certificate signed by an Authorized Officer of the Borrower stating that (i) under his/her supervision the Borrower has made a review of its activities during the preceding annual period for the purpose of determining whether or not the Borrower has complied with all of the terms, provisions and conditions of this Agreement and each Loan Document and (ii) to the best of his/her knowledge no Default or Event of Default has occurred with respect to the Borrower in the performance or observance of any of the terms, covenants, provisions or conditions of this Agreement or any Loan Document, or if a Default or Event of Default shall have occurred with respect to the Borrower, such certificate shall specify each such Default or Event of Default, the nature and status thereof and any remedial steps taken or proposed to correct each such Default or Event of Default.

(d) *Financial Covenant Compliance.* The Borrower shall deliver to the Bank within thirty (30) days after each Financial Covenant Determination Date, a certificate of an Authorized Officer of the Borrower certifying, in form and substance acceptable to the Bank, the Borrower's Days Cash on Hand and Debt Service Coverage Ratio as of such Financial Covenant Determination Date, and providing the basis for such calculation.

(e) *Amendments.* Promptly after the adoption thereof, copies of any amendments of or supplements to any Loan Document, the Joint Powers Agreement, any Financing Document or any bylaws of the Borrower.

(f) *Parties to Joint Powers Agreement.* Promptly after any entity ceases to be a Party (as defined in the Joint Powers Agreement), notice thereof and copies of any notices or documents provided by or to the Borrower in connection therewith.

(g) *Other Reports.* Promptly upon request by the Bank, copies of any financial statement or report furnished to any other holder of long term securities of the Borrower pursuant to the terms of any long term indenture, loan or credit or similar agreement and not otherwise required to be furnished to the Bank pursuant to any other clause of this Section 5.02.

(h) *Other Information.* Such other information with respect to the business, properties, revenues, assets or the condition or operations, financial or otherwise, of the Borrower as the Bank may from time to time reasonably request.

Section 5.03 Notices.

(a) *Notice of Default.* As promptly as practical after the date the Borrower shall have obtained knowledge of the occurrence of an Event of Default or breach of this Agreement, the Borrower shall provide notice of the same to the Bank and, in either case, provide to the Bank the written statement of the Borrower setting forth the details of each such event and the action which the Borrower proposes to take with respect thereto.

(b) *Offering Circulars and Material Event Notices.* The Borrower shall, within ten (10) days after the filing of a material event notice or the issuance by the Borrower of any indebtedness or other obligation with respect to which a final official statement or other offering circular has been prepared by the Borrower, provide the Bank with a copy of such notice, official statement or offering circular, as applicable.

Section 5.04 Further Assurances. The Borrower shall, upon the request of the Bank, from time to time, execute and deliver and, if necessary, file, register and record such further financing statements, amendments, confirmation statements and other documents and instruments and take such further action as may be reasonably necessary to effectuate the provisions of this Agreement and each Loan Document. Except to the extent it is exempt therefrom, the Borrower will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Agreement and each Loan Document and such instruments of further assurance.

Section 5.05 Right of Entry. The Borrower shall permit the duly authorized representatives of the Bank during normal business hours and upon reasonable notice to enter the premises of the Borrower, or any parts thereof, to examine and copy the Borrower's financial and corporate books, records and accounts, and to discuss the affairs, finances, business and accounts of the Borrower with the Borrower's officers and employees.

Section 5.06 Payment of Obligations; Removal of Liens. The Borrower shall pay (a) all indebtedness and obligations of the Borrower in accordance with the terms thereof and (b) all assessments or other governmental charges as the same respectively become due, all taxes,

assessments (general or special) and governmental charges of any kind whatsoever that may be at any time lawfully assessed or levied against or with respect to any of its or its businesses, property, revenues and assets or any interest thereon and promptly discharge or cause to be discharged all liens, encumbrances and charges on such businesses, property, revenues and assets.

Section 5.07 Related Obligations. The Borrower shall promptly pay all amounts payable by it under this Agreement and under the other Loan Documents according to the terms hereof or thereof and shall duly observe, perform and fulfill each of its obligations under this Agreement and under the provisions of each of the other Loan Documents. Such provisions of such other Loan Documents, as well as related defined terms contained therein, are hereby incorporated by reference herein with the same effect as if each and every such provision were set forth herein in its entirety without giving effect to any expiration, amendment, supplement or termination of the Loan Documents to which the Bank has not given its express written consent.

Section 5.08 Insurance. Subject to Section 5.28, the Borrower will at all times maintain insurance with respect to its business, operations, assets and properties against such risks, in such amounts, with such companies and with such deductibles as is customarily carried by and insures against such risks as are customarily insured against by entities with business, operations, assets and properties of like size, location and character to those of the Borrower.

Section 5.09 Employee Benefit Plan Compliance. The Borrower shall, in a timely fashion, comply in all material respects with all requirements under any employee benefit plan in which the Borrower or any of its employees participate.

Section 5.10 Disclosure of Participants. The Borrower permits the Bank to disclose any information received by the Bank in connection herewith to any Participant, including without limitation the financial information described in Section 5.02.

Section 5.11 Sovereign Immunity. The Borrower irrevocably agrees that it will not assert the defense of any future right of sovereign immunity in a legal proceeding to enforce or collect upon the obligations of the Borrower under this Agreement, the Loan Documents or the transactions contemplated hereby and thereby.

Section 5.12 Notice of Adverse Change. The Borrower shall provide to the Bank written notice as soon as possible of (i) the filing of actions, suits and proceedings before any court, arbitrator or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, against the Borrower, where the amount claimed is in excess of five million Dollars (\$5,000,000), (ii) any action, suit, proceeding, inquiry or investigation before or by any court, public board or body pending or threatened wherein an unfavorable decision, ruling or finding could result in a Material Adverse Change or (iii) any other event which, in the reasonable judgment of the Borrower, is likely to result in a Material Adverse Change.

Section 5.13 Taxes and Liabilities. The Borrower shall pay all its indebtedness and other obligations promptly and in accordance with their terms and pay and discharge or cause to be paid and discharged promptly all taxes, assessments and governmental charges or levies

imposed upon it or upon its income and profits, or upon any of its property, real, personal or mixed, or upon any part thereof, before the same shall become in default, which default could result in a Material Adverse Change.

Section 5.14 Compliance With Laws, Etc. The Borrower shall not violate any laws, rules, regulations, or governmental orders to which it is subject and of which it is aware after diligent inquiry, which violation involves a reasonable likelihood of resulting in a Material Adverse Change.

Section 5.15 Preservation of Existence, Ownership, Etc. The Borrower shall (a) preserve and maintain its corporate existence, right (charter and statutory) and franchises, trade names and licenses, (b) qualify and remain qualified to do business in each jurisdiction in which such qualification is necessary in view of the Borrower's business or operations and (c) preserve all of the property of the Borrower used or useful in the conduct of the Borrower's business or operations and keep the same in good repair, working order and condition, and from time to time make, or cause to be made, all needful and proper repairs, renewals and replacements, betterments and improvements thereto, so that the business carried in connection therewith may be properly and advantageously conducted at all times.

Section 5.16 Certain Information. The Borrower shall not include in an offering document for any Indebtedness any information concerning the Bank that is not supplied in writing, or otherwise approved, by the Bank expressly for inclusion therein, which supply or approval shall not be unreasonably withheld.

Section 5.17 Disposition of Assets. The Borrower shall not dissolve nor shall it sell, lease, assign, transfer or otherwise dispose of all or a substantial portion of its properties and assets.

Section 5.18 Consolidation or Merger. The Borrower shall not consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it or acquire all or substantially all of the property and assets of any other Person without the consent of the Bank; provided, that nothing in this Section 5.18 is intended to preclude the addition of new Members to the Borrower in accordance with the Joint Powers Agreement.

Section 5.19 Proceeds of Term Loans. The proceeds of the Term Loans will be used by the Borrower solely for purposes consistent with the Act and the purposes of the Borrower as set forth in the Joint Powers Agreement, including for purposes consistent with the community choice aggregation program established by Borrower pursuant to California Public Utilities Code Section 366.2.

Section 5.20 Disclosure in Financial Statements. The Borrower shall reflect the indebtedness evidenced by this Agreement in any statement of assets and liabilities prepared by or for the Borrower.

Section 5.21 Liens. The Borrower will not create, incur or permit to exist any lien of any kind on any Property of the Borrower except (i) the lien on Collateral (as defined in the Security Agreement) in favor of the Collateral Agent, for the benefit of the Secured Creditors,

each as defined in the Security Agreement, (ii) the lien on Pledged Revenues in favor of the Bank and (iii) the lien on Collateral (as defined herein) in favor of the Bank.

Section 5.22 Burdensome Contracts With Members. The Borrower will not enter into any contract, agreement or business arrangement with any of its Members on terms and conditions which are less favorable to the Borrower than would be usual and customary in similar contracts, agreements or business arrangements between unrelated persons transacting with each other on an arm's length basis.

Section 5.23 Indebtedness. The Borrower shall not create, incur, assume or suffer to exist any Indebtedness except (i) any Power Purchase Agreements, (ii) any loans from Parties (as defined in the Joint Powers Agreement) which loans are secured by the Pledged Revenues on parity with or subordinate to the pledge thereon in favor of the Borrower's Obligations hereunder and which loans may not be accelerated upon a default thereunder while this Agreement remains outstanding, (iii) any Indebtedness having a principal amount not in excess of \$500,000, (iv) any Swap Contract entered into for the purpose of hedging the Borrower's obligations in respect of any Power Purchase Agreement and (iv) any Indebtedness consented to by the Bank.

Section 5.24 Deposit of Pledged Revenues. The Borrower shall, on each Distribution Date (as defined in the Security Agreement) direct the Collateral Agent (as defined in the Security Agreement) to transfer the balance of the funds in the Deposit Accounts (as defined in the Security Agreement) into the Operating Fund Account in accordance with the terms of Section 6.02(v) of the Security Agreement.

Section 5.25 Use of Pledged Revenues. The Borrower shall not spend, disburse, apply, lend or otherwise dispose of monies constituting Pledged Revenues except for purposes consistent with the purpose of the Borrower as set forth in the Joint Powers Agreement, including for purposes consistent with the community choice aggregation program established by Borrower pursuant to California Public Utilities Code Section 366; provided that, following the occurrence of an Event of Default hereunder, the Borrower shall apply all Pledged Revenues to the payment of Obligations hereunder.

Section 5.26 Amendments. The Borrower shall not amend, modify or supplement, nor agree to any amendment or modification of, or supplement to, any of the Loan Documents, the Joint Powers Agreement or the Financing Documents or its bylaws, if any, without the prior written consent of the Bank; provided, that nothing in this Section 5.26 is intended to preclude (a) the addition of new Members to the Borrower in accordance with the Joint Powers Agreement or (b) any amendment to the Joint Powers Agreement which does not materially adversely affect the rights of the Bank hereunder.

Section 5.27 Incorporation by Reference. From and after the date hereof and so long as this Agreement is in effect, except to the extent compliance in any case or cases is waived in writing by the Bank, the Borrower shall perform, observe, fulfill and comply with, abide by, and be restricted by the provisions of the Financing Documents to which it is a party, so long as any Obligations remain outstanding hereunder, which agreements, covenants, obligations and undertakings together with the related definitions, exhibits and ancillary provisions are incorporated herein by reference, mutatis mutandis, and made a part hereof to the same extent

and with the same force and effect as if the same had been herein set forth in their entirety. No amendment to any such covenants or defined terms shall be effective to amend such covenants and defined terms as incorporated by reference herein without the prior written consent of the Bank.

Section 5.28 Insurance. The Borrower shall procure, on or prior to the date of the advance of the first Term Loan hereunder, insurance with respect to its business, operations, assets and properties against such risks, in such amounts, with such companies and with such deductibles as is customarily carried by and insures against such risks as are customarily insured against by entities with business, operations, assets and properties of like size, location and character to those of the Borrower.

Section 5.29 Delivery of Collateral.

(a) As a condition to the issuance of any Term Loan hereunder, the Borrower shall, prior to the date of issuance of such Term Loan, deliver to the Custodian, for the benefit of the Bank, sufficient Collateral such that, immediately after delivery of such Collateral, the Aggregate Value of the Collateral shall be at least equal to the product of (i) the sum of (A) the principal amount of all Term Loans then outstanding and (B) the principal amount of the requested Term Loan times (ii) the Required Collateral Percentage.

(b) Within two (2) Business Days following the repayment, in whole or in part, of any Term Loan hereunder, the Bank shall direct the Custodian to deliver to the Borrower, free and clear, sufficient Collateral such that, immediately after return of such Collateral, the Aggregate Value of the Collateral shall be equal to the product of (i) the principal amount of all Term Loans then outstanding times (ii) the Required Collateral Percentage.

(c) The terms of this Section 5.29 shall apply and shall remain in full force and effect until the occurrence of a Collateral Reduction Date. Within two (2) Business Days following the occurrence of a Collateral Reduction Date, the Bank shall direct the Custodian to deliver to the Borrower, free and clear, all Collateral then held by the Custodian for the benefit of the Bank in the Collateral Account. The terms of this Section 5.29 shall be reinstated and shall be in full force and effect (subject to the subsequent occurrence of a Collateral Reduction Date) if the Borrower elects to deliver Collateral to avoid the occurrence of an Event of Default under Section 6.01(j) hereof.

(d) The Borrower shall promptly pay, when due, all fees and expenses of the Custodian as set forth in the Account Control Agreement.

(e) *[Provisions regarding replacement of Custodian to follow.]*

Section 5.30 Debt Service Coverage Ratio and Days Cash on Hand. (a) As of each Financial Covenant Determination Date, the Debt Service Coverage Ratio of the Borrower shall be not less than the Debt Service Coverage Ratio Requirement, unless waived in writing by the Bank.

(b) As of each Financial Covenant Determination Date, the Days Cash on Hand of the Borrower shall be not less than the Days Cash on Hand Requirement, unless waived in writing by the Bank.

(c) If either (i) the Debt Service Coverage Ratio of the Borrower is less than the Debt Service Coverage Ratio Threshold as of any Financial Covenant Determination Date or (ii) the Borrower's Days Cash on Hand is less than the Days Cash on Hand Threshold as of any Financial Covenant Determination Date, the Borrower shall (A) notify the Bank within one (1) Business Day thereof and (B) at its own expense, retain a Consultant within thirty (30) days of such Financial Covenant Determination Date, to make recommendations with respect to the rates, fees and charges of the Borrower and the Borrower's methods of operation and other factors affecting its financial condition in order to increase the Debt Service Coverage Ratio of the Borrower above the Debt Service Coverage Ratio Threshold and increase the Borrower's Days Cash on Hand above the Days Cash on Hand Threshold. Such Consultant shall be selected by the Borrower and shall be acceptable to the Bank and shall deliver its report and recommendations within forty-five (45) days of its appointment.

(d) A copy of the Consultant's report and recommendations shall be provided to the Bank. The Borrower shall comply with the recommendations of the Consultant to the extent commercially reasonable in the exercise of their business judgment and to the extent permitted by law. The Borrower shall be deemed in compliance with this Section so long as the Borrower remains in compliance with such recommendations, unless (i) the Debt Service Coverage Ratio of the Borrower on any subsequent Financial Covenant Determination Date is less than the Debt Service Coverage Ratio Requirement, or (ii) the Days Cash on Hand of the Borrower on any subsequent Financial Covenant Determination Date is less than the Days Cash on Hand Requirement, any such event being an Event of Default under this Agreement.

(e) In addition to the obligations set forth above, if either (i) the Debt Service Coverage Ratio of the Borrower is less than the Debt Service Coverage Ratio Threshold as of any Financial Covenant Determination Date or (ii) the Borrower's Days Cash on Hand is less than the Days Cash on Hand Threshold as of any Financial Covenant Determination Date, the Borrower shall, within thirty (30) days thereof, take all necessary action to convert the Operating Fund Account to a custodial account, in form and substance acceptable to the Bank, reflecting the Bank's first priority security interest therein and in the Pledged Revenues, authorizing the Bank to issue a notice of exclusive control in respect thereof upon the occurrence of an Event of Default hereunder, and accompanied by such opinions of counsel to the Borrower as the Bank may reasonably request in respect thereof.

ARTICLE VI

EVENTS OF DEFAULT, REMEDIES

Section 6.01 Events of Default and Remedies. If any of the following events shall occur, each such event shall be an "*Event of Default*":

(a) (i) the Borrower shall fail to pay the principal of or interest on any Term Loan when due, provided that the Borrower shall have received an invoice with respect to such principal or interest or (ii) the Borrower shall fail to pay any other Obligation when due and such failure shall not have been remedied within five (5) days following receipt of notice of such failure;

(b) any representation or warranty made by or on behalf of the Borrower in this Agreement or any Loan Document or in any certificate or statement delivered hereunder or thereunder shall be incorrect or untrue in any material respect when made or deemed to have been made or delivered; or

(c) the Borrower shall default in the due performance or observance of any of the covenants set forth in Section 5.01, 5.03(a), 5.11, 5.14, 5.17, 5.18, 5.19, 5.23, 5.24, 5.25, 5.26, 5.29 or 5.30 hereof; or

(d) the Borrower shall default in the due performance or observance of any other term, covenant or agreement contained in this Agreement or any Loan Document and such default shall remain unremedied for a period of thirty (30) days or more; or

(e) one or more final, unappealable judgments against the Borrower for the payment of money, which, individually or in the aggregate, equal or exceed \$1,000,000, shall remain unpaid, unstayed, undischarged, unbonded or undismissed for a period of sixty (60) days; or

(f) an Event of Insolvency shall have occurred with respect to the Borrower; or

(g) this Agreement or any Loan Document or any material provision hereof or thereof shall at any time for any reason cease to be valid and binding on the Borrower as a result of a ruling or finding by a court or a Governmental Authority with competent jurisdiction or shall be declared in a final non appealable judgment by any court with competent jurisdiction to be null and void, invalid, or unenforceable, or the validity or enforceability thereof shall be contested by the Borrower or any agent or trustee on their behalf or the Borrower or any agent or trustee on their behalf shall repudiate or otherwise deny that it has any further liability or obligation with respect thereto; or

(h) (i) default by the Borrower in the payment of any amount due in respect of any Indebtedness owed to the Bank or default by the Borrower in the payment of any amount due in respect of any Indebtedness of the Borrower (excluding any amount due to any PPA Provider) in an aggregate amount in excess of \$100,000, as and when the same shall become due, or (ii) the occurrence of any default, event of default or other similar condition or event (however described) under any mortgage, agreement or other instrument under or pursuant to which any Indebtedness of the Borrower (excluding any amount due to any PPA Provider) having an aggregate principal amount in excess of \$100,000 is incurred or issued, and continuance of such default beyond the period of grace, if any, allowed with respect thereto, which results in either (x) such Indebtedness becoming due and payable before it would otherwise have been due and payable or (y) the creditor in respect of such Indebtedness becoming entitled to any more collateral or other pledged assets of the Borrower (or any entity on behalf of the Borrower) to secure such Indebtedness than such creditor would otherwise have been entitled; or

(i) default by the Borrower in the payment of any amount due to any PPA Provider in an aggregate amount in excess of \$500,000, and which has not been cured pursuant to applicable cure provisions, unless such obligation is being contested in good faith by the Borrower through appropriate action; or

(j) following a Collateral Reduction Date, (A) either (i) either of Moody's or S&P shall downgrade its respective Rating to below "Baa3" (or its equivalent) by Moody's or below "BBB-" (or its equivalent) by S&P, or (ii) either of Moody's or S&P shall suspend or withdraw any Rating (for reasons other than (x) the defeasance or redemption of Parity Debt or (y) the replacement of a private Rating with a published Rating) and (B) the Borrower has failed to deliver all required Collateral pursuant to the terms of this Agreement and the Account Control Agreement within thirty (30) days thereof; or

(k) a senior officer of the Borrower shall (i) claim that this Agreement or any Loan Document or any material provision herein or therein is not legal, valid or enforceable or (ii) repudiate its obligations under this Agreement or any Loan Document or under any Indebtedness of the Borrower having an aggregate principal amount in excess of \$100,000; or

(l) the Borrower or any Governmental Authority with jurisdiction over the Borrower shall initiate any legal proceedings to seek an adjudication that this Agreement or any Loan Document or the obligation to pay or repay any Term Loan or any other Indebtedness of the Borrower having an aggregate principal amount in excess of \$100,000 is not valid or not binding on the Borrower; or

(m) there shall be appointed or designated with respect to the Borrower, an entity such as an organization, board, commission, authority, agency or body to monitor or declare a financial emergency or similar state of financial distress with respect to it or there shall be declared by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it.

Section 6.02 Remedies. Upon the occurrence of any Event of Default and at any time thereafter during the continuance of such Event of Default, the interest rate on the Term Loans and all other outstanding Obligations hereunder shall immediately and without further action convert to the Default Rate and the Bank at its option may take any one or more of the following actions:

(a) declare all Term Loans and all other Obligations hereunder to be, and such amounts shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower; and/or

(b) deliver a "notice of exclusive control" to the Custodian (with a copy to the Borrower) pursuant to the Account Control Agreement and, thereafter, exercise all rights and remedies available to a secured party under applicable law with respect to Collateral posted by the Borrower pursuant to the Account Control Agreement, including, without limiting the foregoing, exercise the right to set off any amounts payable by the Borrower with respect to any Obligations against any Collateral held by or for the benefit of the Bank pursuant to the Account

Control Agreement (provided that the Bank shall account to the Borrower for any application of the Collateral in satisfaction of the Obligations); and/or

- (c) pursue any action available at law or in equity.

Section 6.03 Remedies Cumulative; Solely for the Benefit of the Bank. To the extent permitted by, and subject to the mandatory requirements of, applicable Law, each and every right, power and remedy herein specifically given to the Bank shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Bank, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

The rights and remedies of the Bank specified herein are for the sole and exclusive benefit, use and protection of the Bank, and the Bank is entitled, but shall have no duty or obligation to the Borrower or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Bank hereunder or under any Loan Document.

ARTICLE VII

MISCELLANEOUS

Section 7.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement or any Loan Document, and no consent to any departure by the Borrower therefrom, shall be effective unless in writing signed by the Bank and the Borrower, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. In the case of any such waiver or consent relating to any provision hereof, any Default or Event of Default so waived or consented to shall be deemed to be cured and not continuing, but no such waiver or consent shall extend to any other or subsequent Default or Event of Default or impair any right consequent thereto.

Section 7.02 Notices; Effectiveness; Electronic Communication. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax transmission or e-mail transmission to the address, fax number or e-mail address specified for such Person on Schedule I, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number specified for such Person on Schedule I. Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by fax transmission shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other

communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (c).

(b) *Electronic Communications.* Notices and other communications to the Bank hereunder may be delivered or furnished by electronic communication (including e-mail) pursuant to procedures approved by the Bank. The Bank or the Borrower, in its discretion, agrees to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it provided that the approval of such procedures may be limited to particular notices or communications.

(c) Unless the Bank otherwise prescribes, notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(d) *Change of Address, Etc.* Each of the Borrower and the Bank may change its address, fax number or telephone number or e-mail address for notices and other communications hereunder by notice to the other parties hereto.

(e) *Reliance by the Bank.* The Bank shall be entitled to rely and act upon any notices (including telephonic or electronic notices) purportedly given by or on behalf of the Borrower by an Authorized Officer even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Bank from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower; provided that the Borrower shall not be required to indemnify the Bank for any losses, costs, expenses or liabilities, to the extent, but only to the extent, caused by the willful misconduct or gross negligence of the Bank. All telephonic notices to and other telephonic communications with the Bank may be recorded by the Bank, and each of the parties hereto hereby consents to such recording.

Section 7.03 No Waiver; Cumulative Remedies. No failure by the Bank to exercise, and no delay by the Bank in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided and provided under the other Loan Documents are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Section 7.04 Costs and Expenses; Damage Waiver. (a) The Borrower shall pay (i) all reasonable out of pocket expenses incurred by the Bank and its Affiliates (including the reasonable fees, charges and disbursements of counsel for the Bank in an amount not to exceed \$47,500, which amount shall be paid on or prior to the earlier of (i) August 15, 2016 and (ii) the

date of the advance the initial Term Loan) in connection with the preparation, negotiation, execution, and delivery of this Agreement and the Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), and (ii) all out of pocket expenses incurred by the Bank (including the fees, charges and disbursements of any counsel for the Bank), and all fees and time charges for attorneys who may be employees of the Bank, in connection with the enforcement or protection of its rights in connection with this Agreement or the Loan Documents, including its rights under this Section, including all such out of pocket expenses incurred during any workout, restructuring or negotiations in respect of such purchase.

(b) *Indemnification by the Borrower.* To the extent permitted by law, in addition to any and all rights of reimbursement, indemnification, subrogation or any other rights pursuant hereto or under law or equity, the Borrower hereby agrees to indemnify and hold harmless each of the Bank, each Participant and their respective officers, directors, employees and agents (each an "Indemnitee") from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever (including reasonable attorneys' fees) that an Indemnitee may incur (or which may be claimed against an Indemnitee by any Person whatsoever) that arises out of the transactions contemplated by this Agreement or the Loan Documents, including, without limitation, (i) the execution and delivery or transfer of, or payment or failure to pay under, this Agreement or the Loan Documents; and (ii) the use of the proceeds of the Term Loan; provided that the Borrower shall not be required to indemnify any Indemnitee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or gross negligence of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction. If any proceeding shall be brought or threatened against any Indemnitee by reason of or in connection with the events described in (i) or (ii), the Bank shall promptly notify the Borrower in writing and the Borrower shall assume the defense thereof, including the employment of counsel and the payment of all costs of litigation. The Borrower will not settle or compromise any such action or claim without the prior written consent of the relevant Indemnitee if the settlement or compromise involves any performance by or adverse admission of such Indemnitee. Notwithstanding the preceding sentence, if the interests of the Borrower and an Indemnitee are, in the reasonable judgment of the Indemnitee, in material conflict, an Indemnitee shall have the right to employ its own counsel and to determine its own defense of such action in any such case, but the fees and expenses of such counsel shall be at the expense of the Borrower.

(c) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by law, the Borrower shall not assert, and hereby waives, and acknowledges that no other Person has or shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or the Loan Documents or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, the Term Loans or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct

of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(d) *Payments.* All amounts due under this Section shall be payable not later than thirty (30) days after demand therefor.

(e) *Survival.* The agreements in this Section shall survive the payment in full of the Term Loans, the repayment, satisfaction or discharge of all other Obligations and the termination of this Agreement.

Section 7.05 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to the Bank, and such payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential or required (including pursuant to any settlement entered into by the Bank in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made.

Section 7.06 Successors and Assigns.

(a) *Successors and Assigns Generally.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted by this Section. The Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Bank.

(b) The Bank may at any time, without the consent of, or notice to, the Borrower, assign or otherwise transfer any of its rights or obligations hereunder to (i) an entity which is affiliated with the Bank or (ii) a funding entity or other special purpose arrangement established by the Bank or an Affiliate of the Bank. The Bank may at any time, with the written consent of the Borrower (such consent not to be unreasonably withheld or delayed), assign or otherwise transfer any of its rights or obligations hereunder to any other bank, institutional investor or other entity which, in each case, customarily purchases or holds loans.

(c) *Participations.* The Bank may at any time, without the consent of, or notice to, the Borrower, sell participations to any Person (other than a natural Person or the Borrower) (each, a "Participant") in all or a portion of the Bank's rights and/or obligations under this Agreement (including all or a portion of the Term Loans) and any such Participant, and any investors in any such Participant if such Participant is a funding vehicle, such as a tender option trust or similar vehicle, shall be entitled to receive from the Bank any information provided by the Borrower to the Bank; provided that (i) the Bank's obligations under this Agreement shall remain unchanged, (ii) the Bank shall remain solely responsible to the Borrower for the performance of such obligations and (iii) the Borrower shall continue to deal solely and directly with the Bank in connection with the Bank's rights and obligations under this Agreement; and provided however, that (A) no such Participant shall be entitled to receive payment hereunder of any amount greater than the amount which would have been payable had the Bank not granted a participation to such Participant; (B) no Participant shall be entitled to receive directly from the Borrower any notice required to be given by the Borrower to the Bank hereunder; and (C) no

Participant shall be entitled to request or receive directly from the Borrower any other information required to be provided to the Bank hereunder. To the extent permitted by law, each Participant also shall be entitled to the benefits of Sections 2.09, 2.10, 2.11 and 7.04 as though it were the Bank.

(d) *Certain Pledges.* The Bank may at any time pledge or grant a security interest in all or any portion of its rights under this Agreement to secure obligations of the Bank, including any pledge or grant to secure obligations to a Federal Reserve Bank; provided that no such pledge or grant shall release the Bank from any of its obligations hereunder or substitute any such pledgee or grantee for the Bank as a party hereto.

Section 7.07 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement constitutes the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 3.01, this Agreement shall become effective when it shall have been executed by the Bank and when the Bank shall have received counterparts hereof that, when taken together, bear the signatures of the other party hereto. Delivery of an executed counterpart of a signature page of this Agreement by fax transmission or e-mail transmission (e.g., “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered under the terms of this Agreement, upon the request of any party, such fax transmission or e-mail transmission shall be promptly followed by such manually executed counterpart.

Section 7.08 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other document delivered pursuant hereto or in connection herewith shall survive the execution and delivery hereof. Such representations and warranties have been or will be relied upon by the Bank, regardless of any investigation made by the Bank or on its behalf and notwithstanding that the Bank may have had notice or knowledge of any Default at the time of making the Term Loans, and shall continue in full force and effect as long as any other Obligation hereunder shall remain unpaid or unsatisfied.

Section 7.09 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 7.10 Governing Law; Jurisdiction; Etc. (a) This Agreement will be governed by and construed in accordance with the laws of the State of New York, except that the capacity, power and authority of the Borrower to enter into this Agreement and to perform its

obligations hereunder shall be governed by and construed in accordance with the laws of the State of California.

(b) *Submission to Jurisdiction.* Each of the parties hereto irrevocably and unconditionally submits, for itself and its property, to the non-exclusive jurisdiction of any State or Federal court in the State of New York in the County of New York, in any action or proceeding arising out of or relating to this Agreement, the Loan Documents or any other related document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court in the County of New York or in such Federal court in the State of New York in the County of New York. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(c) Each of the parties hereto irrevocably and unconditionally waives any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement, the Loan Documents or any other related document in any court referred to in paragraph (b) of this section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 7.11 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 7.12 Extension of Stated Expiration Date. The Maturity Date may be extended from time to time by agreement in writing between the Bank and the Borrower. If no Event of Default has occurred and is continuing, the Borrower may request in writing to the Bank, in the form of Exhibit B to this Agreement not earlier than one hundred eighty (180) days prior to the Maturity Date that the Bank extend the Maturity Date. The Borrower has no obligation to request an extension of the Maturity Date and the Bank has no obligation to agree to an extension of the Maturity Date, and all terms of the extension (including the term, commitment and other fees, interest rates, amortization terms and other provisions) shall be mutually acceptable to the Bank and the Borrower. The Bank agrees to respond to a written extension request by the Borrower within thirty (30) days of receipt of such request by the Bank. If the Bank fails to respond to the Borrower within thirty (30) days of receipt of the Borrower's

request or the Maturity Date shall have occurred, the Bank shall be deemed to have denied such request. If the Bank and the Borrower agree to an extension of the Maturity Date, the Bank shall give written notice, in the form of a Notice of Extension substantially in the form of Exhibit C hereto (a “Notice of Extension”) of its determination to extend the Maturity Date, to the Borrower. If the Maturity Date is extended, the Borrower shall, except as otherwise agreed to in writing by the Bank, be deemed to have made the representations and warranties contained herein on and as of the date on which the Maturity Date is so extended.

Section 7.13 No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereby or by the Loan Documents (including in connection with any amendment, waiver or other modification hereof or thereof), the Borrower acknowledges and agrees that: (a) (i) the services regarding this Agreement provided by the Bank and any Affiliate thereof are arm’s-length commercial transactions between the Borrower, on the one hand, and the Bank and its Affiliates, on the other hand, (ii) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby or by the Loan Documents; (b) (i) the Bank and its Affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Borrower, or any other Person and (ii) neither the Bank nor any of its Affiliates has any obligation to the Borrower with respect to the transactions contemplated hereby or by the Loan Documents except those obligations expressly set forth herein and therein; and (c) the Bank and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, and neither the Bank nor any of its Affiliates has any obligation to disclose any of such interests to the Borrower. To the fullest extent permitted by law, the Borrower, hereby waives and releases any claims that it may have against the Bank or any of its Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

Section 7.14 Electronic Execution of Certain Documents. The words “execute,” “execution,” “signed,” “signature,” and words of like import in this Agreement or any other document related hereto (including waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Bank, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Section 7.15 USA Patriot Act. The Bank is subject to the Patriot Act and hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Bank to identify the Borrower in accordance with the Patriot Act. The Borrower shall, promptly following a request by the Bank, provide all documentation and other information that the Bank requests in order to

comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act.

Section 7.16 Time of the Essence. Time is of the essence of this Agreement.

Section 7.17 Entire Agreement. This Agreement and the Loan Documents represent the final agreement among the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements among the parties.

Section 7.18 Further Assurances. From time to time upon the request of either party hereto, the other shall promptly and duly execute, acknowledge and deliver any and all such further instruments and documents as the requesting party may in its reasonable discretion deem necessary or desirable to confirm this Agreement or the Loan Documents to carry out the purpose and intent hereof and thereof or to enable the requesting party to enforce any of its rights hereunder and thereunder. At any time, and from time to time, upon request by the Bank, the Borrower will, at the Borrower’s expense, correct any defect, error or omission which may be discovered in the form or content of this Agreement or the Loan Documents. Upon any failure by the Borrower to do so, the Bank may make, execute and record any and all such instruments, certificates and other documents for and in the name of the Borrower, all at the sole expense of the Borrower, and the Borrower hereby appoints the Bank the agent and attorney in fact of the Borrower to do so, this appointment being coupled with an interest and being irrevocable. In addition, at any time, and from time to time, upon request by the Bank, the Borrower will, at the Borrower’s expense, provide any and all further instruments, certificates and other documents as may, in the opinion of the Bank, be necessary or desirable in order to verify the Borrower’s identity and background in a manner satisfactory to the Bank.

Section 7.19 Right of Setoff. Upon the occurrence of an Event of Default, the Bank and its Affiliates may, at any time and from time to time, without notice to the Borrower or any other Person (any such notice being expressly waived), set off and appropriate and apply, against and on account of, any obligations and liabilities of the Borrower to the Bank or its Affiliates arising under or connected with this Agreement or the Loan Documents, without regard to whether or not the Bank shall have made any demand therefor, and although such obligations and liabilities may be contingent or unmatured, any and all deposits (general or special, including but not limited to indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other indebtedness or other payment obligation at any time held or owing by the Bank or its Affiliates to or for the credit or the account of the Borrower.

Section 7.20 Bail-In Action Acknowledgment. The Borrower acknowledges and agrees that notwithstanding any other term of this Agreement or any other agreement, arrangement or understanding with the Bank, any liability arising under or in connection with this Agreement may be subject to Bail-In Action, and accept to be bound by the effect of:

- (a) any Bail-In Action in relation to such liability, including (without limitation):

- (i) a reduction, in full or in part, of any amount due in respect of any such liability;
 - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, you; and
 - (iii) a cancellation of any such liability; and
- (b) a variation of any term of this Agreement to the extent necessary to give effect to Bail-In Action in relation to any such liability.

“Bail-In Action” means the exercise by a resolution authority of any write-down or conversion power existing from time to time (including, without limitation, any power to amend or alter the maturity of eligible liabilities of an institution under resolution or amend the amount of interest payable under such eligible liabilities or the date on which interest becomes payable, including by suspending payment for a temporary period and together with any power to terminate and value transactions) under, and exercised in compliance with, any laws, regulations, rules or requirements in effect in the United Kingdom relating to the transposition of the Bank Recovery and Resolution Directive, as amended from time to time, including but not limited to, the Banking Act 2009 as amended from time to time, and the instruments, rules and standards created thereunder, pursuant to which our obligations (or those of the Bank’s affiliates) can be reduced (including to zero), cancelled or converted into shares, other securities, or other obligations of the Bank or any other person.

Section 7.21 No Recourse Against Constituent Members of Borrower or Individuals. Borrower is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent Members. Borrower shall be solely responsible for all debts, obligations and liabilities accruing and arising out of this Agreement and the Term Loans and the other Loan Documents. None of this Agreement, the Term Loans or any other Obligations or any other Loan Document shall constitute a debt, liability or obligation of any of the constituent Members of the Borrower. The Bank shall not make any claims, take any actions or assert any remedies against any of the Borrower’s constituent Members in connection with any payment default by Borrower under this Agreement or any other Loan Document.

It is hereby recognized and agreed that no member of the Board of Directors, no officer, employee or agent of the Borrower, no member of the governing body or officer of the constituent Members of the Borrower shall be individually liable for the payment of the Term Loans or other Obligations hereunder or in respect of any undertakings by the Borrower under this Loan Agreement or the other Loan Documents.

Section 7.22 No Third Party Rights. Nothing in this Agreement, whether express or implied, shall be construed to give to any Person other than the Borrower, the Bank, any successors and assigns thereof, or any Participant, any legal or equitable right, remedy or claim under or in respect of this Agreement, which is intended for the sole and exclusive benefit of the aforementioned parties.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the Effective Date.

PENINSULA CLEAN ENERGY AUTHORITY

By _____
Name:
Title:

BARCLAYS BANK PLC

By _____
Name: James Saakvitne
Title: Authorized Signatory for and on
behalf of Barclays Bank PLC

SCHEDULE I

ADDRESSES

The Borrower:	Peninsula Clean Energy Authority [address] Attention: Telephone: Facsimile: Email:
The Bank:	Barclays Bank PLC 745 Seventh Avenue, 19th Floor New York, New York 10019 Attention: James Saakvitne Facsimile: (212) 528-1053 Telephone: (917) 254-1353 Email: james.saakvitne@barclays.com
With respect to payments:	Barclays Bank PLC ABA# 026002574 Credit to Account No.: 050019104 Reference: Peninsula Clean Energy Authority

EXHIBIT A

FORM OF BORROWING REQUEST

Barclays Bank PLC
1301 6th Avenue
New York, New York 10019
Attention: Loan Operations

Borrowing Request

This Borrowing Request is being delivered pursuant to Section 3.01(____) of the Term Loan Agreement dated as of June __, 2016 (the "Agreement"), between Peninsula Clean Energy Authority (the "Borrower") and Barclays Bank PLC. All capitalized terms used but not defined herein shall have the meaning specified for such terms in the Agreement.

The Borrower hereby irrevocably requests the distribution of the proceeds of a Term Loan and sets forth below the information required by the Agreement in connection therewith:

1. The aggregate amount of the requested Term Loan is: \$[_____].
2. The Business Day of the requested advance is:_____ and funding of the advance is requested no later than 4:00 p.m., New York City time.
3. The proceeds of the requested advance are being used solely for the purposes set forth in the Agreement.
4. The Borrower hereby authorizes and instructs the Bank to disburse the proceeds of the requested advance by wire transfer to the account identified as follows: [insert ABA number/account information].

The Borrower hereby certifies that the conditions to such borrowing set forth in Article III of the Agreement have been satisfied on the date hereof and will be true on the date of the requested advance.

Dated: [_____]

**PENINSULA CLEAN ENERGY
AUTHORITY**

By: _____
Name:
Title:

EXHIBIT B

FORM OF REQUEST FOR EXTENSION

REQUEST FOR EXTENSION

Barclays Bank PLC
[ADDRESS]
Attention:

Ladies and Gentlemen:

Reference is hereby made to that certain Term Loan Agreement dated as of June __, 2016 (the "Agreement"), between Peninsula Clean Energy Authority (the "Borrower") and Barclays Bank PLC (the "Bank"). All capitalized terms contained herein which are not specifically defined shall be deemed to have the definition set forth in the Agreement. The Borrower hereby requests, pursuant to Section 7.12 of the Agreement, that the Maturity Date for the Agreement be extended by [*IDENTIFY APPROPRIATE PERIOD*], subject to such other terms as shall be mutually acceptable to the Bank and the Borrower. Pursuant to Section 7.12 of the Agreement, we have enclosed along with this request the following information:

1. The nature of any and all Defaults and Events of Default;
2. Confirmation that all representations and warranties of the Borrower as set forth in Article IV of the Agreement are true and correct as though made on the date hereof and that no Event of Default has occurred and is continuing on the date hereof except as referenced in paragraph 2 above; and
3. Any other pertinent information previously requested by the Bank.

The Bank is requested to notify the Borrower of its decision with respect to this request for extension within thirty (30) days of the date of receipt hereof. If the Bank fails to notify the Borrower of its decision within such thirty (30) day period, the Bank shall be deemed to have rejected such request.

Very truly yours,

PENINSULA CLEAN ENERGY AUTHORITY

By _____
Name _____
Title _____

EXHIBIT C

NOTICE OF EXTENSION

[DATE]

Peninsula Clean Energy Authority
[Address]

Ladies and Gentlemen:

Reference is hereby made to that certain Term Loan Agreement dated as of June __, 2016 (the "Agreement"), between Peninsula Clean Energy Authority (the "Borrower") and Barclays Bank PLC (the "Bank").

The undersigned, a duly authorized signatory of the Bank hereby advises you, with reference to the above-referenced Agreement (any capitalized term used herein and not defined shall have its respective meaning as set forth in the Agreement), that [Complete as Appropriate]:

1. On [date], the Borrower delivered to the Bank, pursuant to Section 7.12 of the Agreement, a Request For Extension requesting that the date referenced in the definition of "Maturity Date" in the Agreement (as such date may have been extended previously from time to time) be extended to _____.

2. At the request and for the account of the Borrower, we hereby extend the date referenced in the definition of "Maturity Date" in the Agreement (as such date may have been extended previously from time to time) to _____.

3. Except as specifically provided in paragraph (1) above, all of the terms and conditions of the Agreement remain unchanged and in full force and effect.

4. This Notice of Extension is an integral part of the Agreement.]

5. [Specify such other terms (including the term, commitment and other fees, interest rates, amortization terms and other provisions) as mutually agreed upon between the Bank and the Borrower.]

[The Maturity Date will not be extended at this time.]

IN WITNESS WHEREOF, the undersigned, on behalf of the Bank, has executed and delivered this Notice of Extension as of the ____ day of _____.

BARCLAYS BANK PLC

By____
Name_
Title__

EXHIBIT D

CURRENT PARTIES TO JOINT POWERS AGREEMENT

County of San Mateo

Town of Atherton

City of Belmont

City of Brisbane

City of Burlingame

Town of Colma

City of Daly City

City of East Palo Alto

City of Foster City

City of Half Moon Bay

Town of Hillsborough

City of Menlo Park

City of Millbrae

City of Pacifica

Town of Portola Valley

City of Redwood City

City of San Bruno

City of San Carlos

City of San Mateo

City of South San Francisco

Town of Woodside