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APPENDIX A TO SUBPART C OF PART 1718—MODEL FORM OF LOAN CONTRACT FOR ELECTRIC DISTRIBUTION BORROWERS

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LOAN CONTRACT

AGREEMENT, dated _____, 199__, between _____ ("Borrower"), a corporation organized and existing under the laws of the State of _____ (the "State") and the UNITED STATES OF AMERICA acting by

Department of Agriculture

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and through the Administrator of the Rural Utilities Service ("RUS").

RECITALS

The Borrower has applied to RUS for a loan for the purpose(s) set forth in Schedule 1 hereto.

RUS is willing to make such a loan to the Borrower pursuant to the Rural Electrification Act of 1936, as amended, on the terms and conditions stated herein.

THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree and bind themselves as follows:

ARTICLE I—DEFINITIONS

Capitalized terms that are not defined herein shall have the meanings as set forth in the Mortgage. The terms defined herein include the plural as well as the singular and the singular as well as the plural.

"Act" shall mean the Rural Electrification Act of 1936, as amended.

"Advance" or "Advances" shall mean advances by RUS to Borrower pursuant to the terms and conditions of this Agreement.

"Agreement" shall mean this Loan Contract together with all schedules and exhibits and also any subsequent supplements or amendments.

"Business Day" shall mean any day that RUS is open for business.

"Contemporaneous Loan" shall mean any loan which the Borrower has used to satisfy RUS Regulations or loan conditions requiring that supplemental financing be obtained in order to obtain a loan from RUS. Any loan used to refinance or refund a Contemporaneous Loan is also considered to be a Contemporaneous Loan.

"Coverage Ratios" shall mean, collectively, the following financial ratios: (i) TIER of 1.25; (ii) Operating TIER of 1.1; (iii) DSC of 1.25; and Operating DSC of 1.1.

"Debt Service Coverage Ratio" ("DSC") shall have the meaning provided in the Mortgage.

"Distributions" shall mean for the Borrower to, in any calendar year, declare or pay any dividends, or pay or determine to pay any patronage refunds, or retire any patronage capital or make any other Cash Distributions, to its members, stockholders or consumers; provided, however, that for the purposes of this Agreement a "Cash Distribution" shall be deemed to include any general cancellation or abatement of charges for electric energy or services furnished by the Borrower, but not the repayment of a membership fee upon termination of a membership or the rebate of an abatement of wholesale power costs previously incurred pursuant to an order of a state regulatory authority or a wholesale power cost adjustment clause or similar power pricing agree-

ment between the Borrower and a power supplier.

"Electric System" shall have the meaning as defined in the Mortgage.

"Equity" shall mean the Borrower's total margins and equities computed pursuant to RUS Accounting Requirements but excluding any Regulatory Created Assets.

"Event of Default" shall have the meaning as defined in Section [7.1].

"Independent" when used with respect to any specified person or entity means such a person or entity who (1) is in fact independent, (2) does not have any direct financial interest or any material indirect financial interest in the Borrower or in any affiliate of the Borrower and (3) is not connected with the Borrower as an officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions.

"Interest Expense" shall mean the interest expense of the Borrower computed pursuant to RUS Accounting Requirements.

"Loan" shall mean the loan described in Article III which is being made pursuant to the RUS Commitment in furtherance of the objectives of the Act.

"Loan Documents" shall mean, collectively, this Agreement, the Mortgage and the Note.

"Long-Term Debt" shall mean the total of all amounts included in the long-term debt of the Borrower pursuant to RUS Accounting Requirements.

"Maturity Date" shall have the meaning as defined in the Note.

"Monthly Payment Date" shall have the meaning as defined in the Note.

"Mortgage" shall have the meaning as described in Schedule 1 hereto.

"Mortgaged Property" shall have the meaning as defined in the Mortgage.

"Net Utility Plant" shall mean the amount constituting the Total Utility Plant of the Borrower, less depreciation, computed in accordance with RUS Accounting Requirements.

"Note" shall mean a promissory note executed by the Borrower in the form of exhibit A hereto, and any note executed and delivered to RUS to refund, or in substitution for such a note.

"Operating DSC" or "ODSC" shall mean Operating Debt Service Coverage calculated as:

$$ODSC = \frac{A + B + C}{D}$$

Where:

All amounts are for the same calendar year and are computed pursuant to RUS Accounting Requirements and RUS form 7; A = Depreciation and Amortization Expense of the Electric System;

B = Interest Expense on Total Long-Term Debt of the Electric System, except that such Interest Expense shall be increased by 1/3 of the amount, if any, by which the Restricted Rentals of the Electric System exceed 2 percent of the Mortgagor's Equity;

C = Patronage capital & operating margins of the Electric System, (which equals operating revenue and patronage capital of Electric System operations, less total cost of electric service, including Interest Expense on Total Long-Term Debt of the Electric System) plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System; and

D = Debt service billed which equals the sum of all payments of principal and interest required to be made on account of Total Long-Term Debt of the Electric System during the calendar year, plus 1/3 of the amount, if any, by which Restricted Rentals of the Electric System exceed 2 percent of the Mortgagor's Equity.

"Operating TIER" or "OTIER" shall mean Operating Times Interest Earned Ratio calculated as:

$$\text{OTIER} = \frac{A + B}{A}$$

Where:

All amounts are for the same calendar year and are computed pursuant to RUS Accounting Requirements and RUS form 7;

A = Interest Expense on Total Long-Term Debt of the Electric System, except that such Interest Expense shall be increased by 1/3 of the amount, if any, by which Restricted Rentals of the Electric System exceed 2 percent of the Mortgagor's Equity; and

B = Patronage capital & operating margins of the Electric System, (which equals operating revenue and patronage capital of Electric System operations, less total cost of electric service, including Interest Expense on Total Long-Term Debt of the Electric System) plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System.

"Payment Notice" shall mean a notice furnished by RUS to Borrower that indicates the precise amount of each payment of principal and interest and the total amount of each payment.

"Permitted Debt" shall have the meaning as defined in section [6.13].

"Prior Loan Contracts" shall have the meaning as defined in section 9.15.

"Regulatory Created Assets" shall mean the sum of any amounts properly recordable

as unrecovered plant and regulatory study costs or as other regulatory assets, computed pursuant to RUS Accounting Requirements.

"RUS Accounting Requirements" shall mean any system of accounts prescribed by RUS Regulations as such RUS Accounting Requirements exist at the date of applicability thereof.

"RUS Commitment" shall have the meaning as defined in schedule 1 hereto.

"RUS Regulations" shall mean regulations of general applicability published by RUS from time to time as they exist at the date of applicability thereof, and shall also include any regulations of other Federal entities which RUS is required by law to implement.

"Special Construction Account" shall have the meaning as defined in section 5.21.

"Subsidiary" shall mean a corporation that is a subsidiary of the Borrower and subject to the Borrower's control, as defined by RUS Accounting Requirements.

"Termination Date" shall have the meaning as defined in the Note.

"Times Interest Earned Ratio" ("TIER") shall have the meaning provided in the Mortgage.

"Total Assets" shall mean an amount constituting the total assets of the Borrower as computed pursuant to RUS Accounting Requirements, but excluding any Regulatory Created Assets.

"Total Utility Plant" shall mean the amount constituting the total utility plant of the Borrower computed in accordance with RUS Accounting Requirements.

"Utility System" shall have the meaning as defined in the Mortgage.

ARTICLE II—REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties.

To induce RUS to make the Loan, and recognizing that RUS is relying hereon, the Borrower represents and warrants as follows:

(a) *Organization; Power, Etc.* The Borrower: (i) is duly organized, validly existing, and in good standing under the laws of its state of incorporation; (ii) is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary; (iii) has all requisite corporate and legal power to own and operate its assets and to carry on its business and to enter into and perform the Loan Documents; (iv) has duly and lawfully obtained and maintained all licenses, certificates, permits, authorizations, approvals, and the like which are material to the conduct of its business or which may be otherwise required by law; and (v) is eligible to borrow from RUS.

(b) *Authority.* The execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate action and shall not violate any provision of law or of the Articles of Incorporation or By-Laws of the Borrower or result in a breach of, or constitute a default under, any agreement, indenture or other instrument to which the Borrower is a party or by which it may be bound.

(c) *Consents.* No consent, permission, authorization, order, or license of any governmental authority is necessary in connection with the execution, delivery, performance, or enforcement of the Loan Documents, except (i) such as have been obtained and are in full force and effect and (ii) such as have been disclosed on Schedule 1 hereto.

(d) *Binding Agreement.* Each of the Loan Documents is, or when executed and delivered shall be, the legal, valid, and binding obligation of the Borrower, enforceable in accordance with its terms, subject only to limitations on enforceability imposed by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally.

(e) *Compliance With Laws.* The Borrower is in compliance in all material respects with all federal, state, and local laws, rules, regulations, ordinances, codes, and orders (collectively, "Laws"), the failure to comply with which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents, except as the Borrower has disclosed on Schedule 1 attached hereto.

(f) *Litigation.* There are no pending legal, arbitration, or governmental actions or proceedings to which the Borrower is a party or to which any of its property is subject which, if adversely determined, could have a material adverse effect on the condition, financial or otherwise, operations, properties, profits or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents, and to the best of the Borrower's knowledge, no such actions or proceedings are threatened or contemplated, except as the Borrower has disclosed to RUS in writing.

(g) *Title to Property.* As to property which is presently included in the description of Mortgaged Property, the Borrower holds good and marketable title to all of its real property and owns all of its personal property free and clear of any Lien except the Liens specifically identified on Schedule 2 attached hereto (the "Existing Liens"), and Permitted Encumbrances or Liens permitted under the Mortgage.

(h) *Financial Statements; No Material Adverse Change; Etc.* All financial statements submitted to RUS in connection with the application for the Loan or in connection with this Agreement fairly and fully present the financial condition of the Borrower and the results of the Borrower's operations for the periods covered thereby and are prepared in accordance with RUS Accounting Requirements consistently applied. Since the dates thereof, there has been no material adverse change in the financial condition or operations of the Borrower. All budgets, projections, feasibility studies, and other documentation submitted by the Borrower to RUS are based upon assumptions that are reasonable and realistic, and as of the date hereof, no fact has come to light, and no event or transaction has occurred, which would cause any assumption made therein not to be reasonable or realistic.

(i) *Principal Place of Business; Records.* The principal place of business and chief executive office of the Borrower is at the address of the Borrower shown on Schedule 1 attached hereto.

(j) *Location of Properties.* All property owned by the Borrower is located in the counties identified in Schedule 1 hereto.

(k) *Subsidiaries.* The Borrower has no subsidiary, except as the Borrower has disclosed to RUS in writing.

(l) *Defaults Under Other Agreements.* The Borrower is not in default under any agreement or instrument to which it is a party or under which any of its properties are subject that is material to its financial condition, operations, properties, profits, or business.

(m) *Survival.* All representations and warranties made by the Borrower herein or made in any certificate delivered pursuant hereto shall survive the making of the Advances and the execution and delivery to RUS of the Note.

ARTICLE III—LOAN

Section 3.1. Advances

RUS agrees to make, and the Borrower agrees to request, on the terms and conditions of this Agreement, Advances from time to time in an aggregate principal amount not to exceed the RUS Commitment. On the Termination Date, RUS may stop advancing funds and limit the RUS Commitment to the amount advanced prior to such date. The obligation of the Borrower to repay the Advances shall be evidenced by the Note in the principal amount of the unpaid principal amount of the Advances from time to time outstanding. The Borrower shall give RUS written notice of the date on which each Advance is to be made.

Section 3.2. Interest Rate and Payment

The Note shall be payable and bear interest as follows:

(a) *Payments and Amortization.* Principal shall be amortized in accordance with the method stated in Schedule 1 hereto and more fully described in the form of Note attached hereto as Exhibit A.

(b) *Application of Payments.* All payments which the Borrower sends to RUS on any outstanding obligation owed to RUS shall be applied in the manner provided in the Borrower's loan documents to which such payments relate and in a manner consistent with RUS policies, practices, and procedures for obligations that have been similarly classified by RUS.

(c) *Electronic Funds Transfer.* Except as otherwise prescribed by RUS, the Borrower shall make all payments on the Note utilizing electronic funds transfer procedures as specified by RUS.

(d) *Fixed or Variable Rate.* The Note shall bear interest at either a fixed or variable rate in accordance with the method stated in Schedule 1 hereto and as more particularly described in the form of Note attached hereto as Exhibit A.

Section 3.3. Prepayment

The Borrower has no right to prepay the Note in whole or in part except such rights, if any, as are expressly provided for in the Note. However, prepayment of the Note (and any penalties) shall be mandatory under Section [5.3] hereof if the Borrower has used a Contemporaneous Loan in order to qualify for the RUS Commitment, and later prepays the Contemporaneous Loan.

ARTICLE IV—CONDITIONS OF LENDING

Section 4.1. General Conditions

The obligation of RUS to make any Advance hereunder is subject to satisfaction of each of the following conditions precedent on or before the date of such Advance:

(a) *Legal Matters.* All legal matters incident to the consummation of the transactions hereby contemplated shall be satisfactory to counsel for RUS.

(b) *Loan Documents.* That RUS receive duly executed originals of this Agreement and the other Loan Documents.

(c) *Authorization.* That RUS receive evidence satisfactory to it that all corporate documents and proceedings of the Borrower necessary for duly authorizing the execution, delivery and performance of the Loan Documents have been obtained and are in full force and effect.

(d) *Approvals.* That RUS receive evidence satisfactory to it that all consents and approvals (including without limitation the consents referred to in Section [2.1(c)] of this Agreement) which are necessary for, or required as a condition of, the validity and enforceability of each of the Loan Documents have been obtained and are in full force and effect.

(e) *Event of Default.* That no Event of Default specified in Article VII and no event which, with the lapse of time or the notice and lapse of time specified in Article VII would become such an Event of Default, shall have occurred and be continuing, or shall have occurred after giving effect to the Advance on the books of the Borrower.

(f) *Continuing Representations and Warranties.* That the representations and warranties of the Borrower contained in this Agreement be true and correct on and as of the date of such Advance as though made on and as of such date.

(g) *Opinion of Counsel.* That RUS receive an opinion of counsel for the Borrower (who shall be acceptable to RUS) in form and content acceptable to RUS.

(h) *Mortgage Filing.* The Mortgage shall have been duly recorded as a mortgage on real property, including after-acquired real property, and duly filed, recorded or indexed as a security interest in personal property, including after acquired personal property, wherever RUS shall have requested, all in accordance with applicable law, and the Borrower shall have caused satisfactory evidence thereof to be furnished to RUS.

(i) *Wholesale Power Contract.* That the Borrower shall not be in default under the terms of, or contesting the validity of, any contract for sales for resale that has been pledged by any entity to RUS as security for the repayment of any loan made or guaranteed by RUS under the Act.

(j) *Material Adverse Change.* That there has occurred no material adverse change in the business or condition, financial or otherwise, of the Borrower and nothing has occurred which in the opinion of RUS materially and adversely affects the Borrower's ability to meet its obligations hereunder.

(k) *Requisitions.* That the Borrower shall requisition all Advances by submitting its requisition to RUS in form and substance satisfactory to RUS. Requisitions shall be made only for the purpose(s) set forth herein. The Borrower agrees to apply the proceeds of the Advances in accordance with its loan application with such modifications as may be mutually agreed.

(l) *Flood Insurance.* That for any Advance used in whole or in part to finance the construction or acquisition of any building in any area identified by the Secretary of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973 (the "Flood Insurance Act") or any rules, regulations or orders issued to implement the Flood Insurance Act ("Rules") as any area having special flood hazards, or to finance any facilities or materials to be located in any such building, or in any building owned or occupied by the Borrower and located in such a flood hazard area, the Borrower has submitted evidence, in form and substance satisfactory to RUS, or RUS has otherwise

determined, that (i) the community in which such area is located is then participating in the national flood insurance program, as required by the Flood Insurance Act and any Rules, and (ii) the Borrower has obtained flood insurance coverage with respect to such building and contents as may then be required pursuant to the Flood Insurance Act and any Rules.

(m) *Compliance With Loan Contract and Mortgage.* That the Borrower is in material compliance with all provisions of this Agreement and the Mortgage.

Section 4.2. Special Conditions

The obligation of RUS to make any Advance hereunder is also subject to satisfaction, on or before the date of such Advance, of each of the special conditions, if any, listed in Schedule 1 hereto.

ARTICLE V—AFFIRMATIVE COVENANTS

Section 5.1. Generally

Unless otherwise agreed to in writing by RUS, while this Agreement is in effect, whether or not any Advance is outstanding, the Borrower agrees to duly observe each of the affirmative covenants contained in this Article:

Section 5.2. Annual Certificates

(a) *Performance Under Loan Documents.* The Borrower shall duly observe and perform all of its obligations under each of the Loan Documents.

(b) *Annual Certification.* Within ninety (90) days after the close of each calendar year, commencing with the year following the year in which the initial Advance hereunder shall have been made, the Borrower shall deliver to RUS a written statement signed by its General Manager, stating that during such year the Borrower has fulfilled all of its obligations under the Loan Documents throughout such year in all material respects or, if there has been a default in the fulfillment of any such obligations, specifying each such default known to said person and the nature and status thereof.

Section 5.3. Simultaneous Prepayment of Contemporaneous Loans

If the Borrower shall at any time prepay in whole or in part the Contemporaneous Loan described on Schedule 1, the Borrower shall prepay the RUS Note correspondingly in order to maintain the ratio that the Contemporaneous Loan bears to the RUS Commitment. If the RUS Note calls for a prepayment penalty or premium, such amount shall be paid but shall not be used in computing the amount needed to be paid to RUS under this section to maintain such ratio. In the case of Contemporaneous Loans and RUS Notes existing prior to the date of this

Agreement under previous agreements, prepayments shall be treated as if governed by this section. Provided, however, in all cases prepayments associated with refinancing or refunding a Contemporaneous Loan pursuant to Article II of the Mortgage are not considered to be prepayments for purposes of this Agreement if they satisfy each of the following requirements:

(a) *Principal.* The principal amount of such refinancing or refunding loan is not less than the amount of loan principal being refinanced; and

(b) *Weighted Average Life.* The weighted average life of the refinancing or refunding loan is materially equal to the weighted average remaining life of the loan being refinanced.

Section 5.4 Rates To Provide Revenue Sufficient to Meet Coverage Ratios Requirements

(a) *Prospective Requirement.* The Borrower shall design and implement rates for utility service furnished by it to provide sufficient revenue (along with other revenue available to the Borrower in the case of TIER and DSC) (i) to pay all fixed and variable expenses when and as due, (ii) to provide and maintain reasonable working capital, and (iii) to maintain, on an annual basis, the Coverage Ratios. In designing and implementing rates under this paragraph, such rates should be capable of producing at least enough revenue to meet the requirements of this paragraph under the assumption that average weather conditions in the Borrower's service territory shall prevail in the future, including average Utility System damage and outages due to weather and the related costs.

(b) The average Coverage Ratios achieved by the Borrower in the 2 best years out of the 3 most recent calendar years must be not less than any of the following:

TIER = 1.25
 DSC = 1.25
 OTIER = 1.1
 ODSC = 1.1

(c) *Prospective Notice of Change in Rates.* The Borrower shall give thirty (30) days prior written notice of any proposed change in its general rate structure to RUS if RUS has requested in writing that it be notified in advance of such changes.

(d) *Routine Reporting of Coverage Ratios.* Promptly following the end of each calendar year, the Borrower shall report, in writing, to RUS the TIER, Operating TIER, DSC and Operating DSC levels which were achieved during that calendar year.

(e) *Reporting Non-achievement of Retrospective Requirement.* If the Borrower fails to achieve the average levels required by paragraph (b) of this section, it must promptly notify RUS in writing to that effect.

(f) *Corrective Plans.* Within 30 days of sending a notice to RUS under paragraph (e) of this section, or of being notified by RUS, whichever is earlier, the Borrower in consultation with RUS, shall provide a written plan satisfactory to RUS setting forth the actions that shall be taken to achieve the required Coverage Ratios on a timely basis.

(g) *Noncompliance.* Failure to design and implement rates pursuant to paragraph (a) of this section and failure to develop and implement the plan called for in paragraph (f) of this section shall constitute an Event of Default under this Agreement in the event that REA so notifies the Borrower to that effect under section [7.1(d)] of this Agreement.

Section 5.5. Depreciation Rates

The Borrower shall adopt as its depreciation rates only those which have been previously approved for the Borrower by RUS.

Section 5.6. Property Maintenance

The Borrower shall maintain and preserve its Utility System in compliance in all material respects with the provisions of the Mortgage, RUS Regulations and all applicable laws.

Section 5.7. Financial Books

The Borrower shall at all times keep, and safely preserve, proper books, records and accounts in which full and true entries shall be made of all of the dealings, business and affairs of the Borrower and its Subsidiaries, in accordance with any applicable RUS Accounting Requirements.

Section 5.8. Rights of Inspection

The Borrower shall afford RUS, through its representatives, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect the Utility System, any other property encumbered by the Mortgage, and any or all books, records, accounts, invoices, contracts, leases, payrolls, canceled checks, statements and other documents and papers of every kind belonging to or in the possession of the Borrower or in anyway pertaining to its property or business, including its Subsidiaries, if any, and to make copies or extracts therefrom.

Section 5.9. Area Coverage

(a) The Borrower shall make diligent effort to extend electric service to all unserved persons within the service area of the Borrower who (i) desire such service and (ii) meet all reasonable requirements established by the Borrower as a condition of such service.

(b) If economically feasible and reasonable considering the cost of providing such service and/or the effects on consumers' rates, such service shall be provided, to the maximum extent practicable, at the rates and

minimum charges established in the Borrower's rate schedules, without the payment of such persons, other than seasonal or temporary consumers, of a contribution in aid of construction. A seasonal consumer is one that demands electric service only during certain seasons of the year. A temporary consumer is a seasonal or year-round consumer that demands electric service over a period of less than five years.

(c) The Borrower may assess contributions in aid of construction provided such assessments are consistent with this section.

Section 5.10. Real Property Acquisition

In acquiring real property, the Borrower shall comply in all material respects with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the "Uniform Act"), as amended by the Uniform Relocation Act Amendments of 1987, and 49 CFR part 24, referenced by 7 CFR part 21, to the extent the Uniform Act is applicable to such acquisition.

Section 5.11. "Buy American" Requirements

The Borrower shall use or cause to be used in connection with the expenditures of funds advanced on account of the Loan only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States or any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or any eligible country substantially all from articles, materials, and supplies mined, produced or manufactured, as the case may be, in the United States or any eligible country, except to the extent RUS shall determine that such use shall be impracticable or that the cost thereof shall be unreasonable. For purposes of this section, an "eligible country" is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.

Section 5.12. Power Requirements Studies

The Borrower shall prepare and use power requirements studies of its electric loads and future energy and capacity requirements in conformance with RUS Regulations.

Section 5.13. Long Range Engineering Plans and Construction Work Plans

The Borrower shall develop, maintain and use up-to-date long-range engineering plans and construction work plans in conformance with RUS Regulations.

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Section 5.14. Design Standards, Construction Standards, and List of Materials

The Borrower shall use design standards, construction standards, and lists of acceptable materials in conformance with RUS Regulations.

Section 5.15. Plans and Specifications

The Borrower shall submit plans and specifications for construction to RUS for review and approval, in conformance with RUS Regulations, if the construction will be financed in whole or in part by a loan made or guaranteed by RUS.

Section 5.16. Standard Forms of Construction Contracts, and Engineering and Architectural Services Contracts

The Borrower shall use the standard forms of contracts promulgated by RUS for construction, procurement, engineering services and architectural services in conformance with RUS Regulations, if the construction, procurement, or services are being financed in whole or in part by a loan being made or guaranteed by RUS.

Section 5.17. Contract Bidding Requirements

The Borrower shall follow RUS contract bidding procedures in conformance with RUS Regulations when contracting for construction or procurement financed in whole or in part by a loan made or guaranteed by RUS.

Section 5.18. Nondiscrimination

(a) *Equal Opportunity Provisions in Construction Contracts.* The Borrower shall incorporate or cause to be incorporated into any construction contract, as defined in Executive Order 11246 of September 24, 1965 and implementing regulations, which is paid for in whole or in part with funds obtained from RUS or borrowed on the credit of the United States pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any RUS program involving such grant, contract, loan, insurance or guarantee, the equal opportunity provisions set forth in Exhibit B hereto entitled Equal Opportunity Contract Provisions.

(b) *Equal Opportunity Contract Provisions Also Bind the Borrower.* The Borrower further agrees that it shall be bound by such equal opportunity clause in any federally assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of government.

(c) *Sanctions and Penalties.* The Borrower agrees that it shall cooperate actively with RUS and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that

it shall furnish RUS and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it shall otherwise assist the administering agency in the discharge of RUS's primary responsibility for securing compliance. The Borrower further agrees that it shall refrain from entering into any contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to Part II, Subpart D of Executive Order 11246 and shall carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by RUS or the Secretary of Labor pursuant to Part II, Subpart D of Executive Order 11246. In addition, the Borrower agrees that if it fails or refuses to comply with these undertakings RUS may cancel, terminate or suspend in whole or in part this contract, may refrain from extending any further assistance under any of its programs subject to Executive Order 11246 until satisfactory assurance of future compliance has been received from such Borrower, or may refer the case to the Department of Justice for appropriate legal proceedings.

Section 5.19. Financial Reports

The Borrower shall cause to be prepared and furnished to RUS a full and complete annual report of its financial condition and of its operations in form and substance satisfactory to RUS, audited and certified by Independent certified public accountants satisfactory to RUS and accompanied by a report of such audit in form and substance satisfactory to RUS. The Borrower shall also furnish to RUS from time to time such other reports concerning the financial condition or operations of the Borrower, including its Subsidiaries, as RUS may reasonably request or RUS Regulations require.

Section 5.20. Miscellaneous Reports and Notices

The Borrower shall furnish to RUS:

(a) *Notice of Default.* Promptly after becoming aware thereof, notice of: (i) the occurrence of any default; and (ii) the receipt of any notice given pursuant to the Mortgage with respect to the occurrence of any event which with the giving of notice or the passage of time, or both, could become an "Event of Default" under the Mortgage.

(b) *Notice of Non-Environmental Litigation.* Promptly after the commencement thereof, notice of the commencement of all actions, suits or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting the Borrower which, if adversely determined, could have a material

adverse effect on the condition, financial or otherwise, operations, properties or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents.

(c) *Notice of Environmental Litigation.* Without limiting the provisions of Section [5.20(b)] above, promptly after receipt thereof, notice of the receipt of all pleadings, orders, complaints, indictments, or other communications alleging a condition that may require the Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claim personal injury or property damage to any person as a result of environmental factors or conditions for which the Borrower is not fully covered by insurance, or which, if adversely determined, could have a material adverse effect on the condition, financial or otherwise, operations, properties or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents.

(d) *Notice of Change of Place of Business.* Promptly in writing, notice of any change in location of its principal place of business or the office where its records concerning accounts and contract rights are kept.

(e) *Regulatory and Other Notices.* Promptly after receipt thereof, copies of any notices or other communications received from any governmental authority with respect to any matter or proceeding which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents.

(f) *Material Adverse Change.* Promptly, notice of any matter which has resulted or may result in a material adverse change in the condition, financial or otherwise, operations, properties, or business of the Borrower, or the ability of the Borrower to perform its obligations under the Loan Documents.

(g) *Other Information.* Such other information regarding the condition, financial or otherwise, or operations of the Borrower as RUS may, from time to time, reasonably request.

Section 5.21. Special Construction Account

The Borrower shall hold all moneys advanced to it by RUS hereunder in trust for RUS and shall deposit such moneys promptly after the receipt thereof in a bank or banks which meet the requirements of Section [6.7] of this Agreement. Any account (hereinafter called "Special Construction Account") in which any such moneys shall be deposited shall be insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS and shall be designated by

the corporate name of the Borrower followed by the words "Trustee, Special Construction Account." Moneys in any Special Construction Account shall be used solely for the construction and operation of the Utility System and may be withdrawn only upon checks, drafts, or orders signed on behalf of the Borrower and countersigned by an executive officer thereof.

Section 5.22. Additional Affirmative Covenants

The Borrower also agrees to comply with any additional affirmative covenant(s) identified in Schedule 1 hereto.

ARTICLE VI—NEGATIVE COVENANTS

Section 6.1. General

Unless otherwise agreed to in writing by RUS, while this Agreement is in effect, whether or not any Advance is outstanding hereunder, the Borrower shall duly observe each of the negative covenants set forth in this Article.

Section 6.2. Limitations on System Extensions and Additions

(a) The Borrower shall not extend or add to its Electric System either by construction or acquisition without the prior written approval of RUS if the construction or acquisition is financed or will be financed, in whole or in part, by a RUS loan or loan guarantee.

(b) The Borrower shall not extend or add to its Electric System with funds from other sources without prior written approval of RUS in the case of:

(1) Generating facilities if the combined capacity of the facilities to be built, procured, or leased, including any future facilities included in the planned project, will exceed the lesser of 5 Megawatts or 30 percent of the Borrower's Equity;

(2) Existing electric facilities or systems in service whose purchase price, or capitalized value in the case of a lease, exceeds ten percent of the Borrower's Net Utility Plant; and

(3) Any project to serve a customer whose annual Kwh purchases or maximum annual Kw demand is projected to exceed 25 percent of the Borrower's total Kwh sales or maximum Kw demand in the year immediately preceding the acquisition or start of construction of facilities.

Section 6.3. Limitations on Changing Principal Place of Business

The Borrower shall not change its principal place of business or keep property in a county not shown on a schedule to the Mortgage if the change would cause the lien in favor of RUS to become unperfected or fail to become perfected, as the case may be, unless, prior thereto, the Borrower shall have taken all steps required by law in order to assure that the lien in favor of RUS remains

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or becomes perfected, as the case may be, and, in either event, such lien has the priority accorded by the Mortgage.

Section 6.4. Limitations on Employment and Retention of Manager

At any time any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing the Borrower shall not employ any general manager of the Utility System or the Electric System or any person exercising comparable authority to such a manager unless such employment shall first have been approved by RUS. If any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing and RUS requests the Borrower to terminate any contract for operating the Utility System or the Electric System, the Borrower shall do so within thirty (30) days after the date of such notice. All contracts in respect of the employment of any such manager or person exercising comparable authority, or RUS requests the Borrower to terminate any contract for operating the Utility System or the Electric System, shall contain provisions to permit compliance with the foregoing covenants.

Section 6.5. Limitations on Certain Types of Contracts

Without the prior approval of RUS in writing, the Borrower shall not enter into any of the following contracts:

(a) *Construction Contracts.* Any contract for construction or procurement or for architectural and engineering services in connection with its Electric System if the project is financed or will be financed, in whole or in part, by a RUS loan or loan guarantee;

(b) *Large retail power contracts.* Any contract to sell electric power and energy for periods exceeding two (2) years if the kWh sales or kW demand for any year covered by such contract shall exceed 25 percent of the Borrower's total kWh sales or maximum kW demand for the year immediately preceding the execution of such contract;

(c) *Wholesale power contracts.* Any contract to sell electric power or energy for resale and any contract to purchase electric power or energy that, in either case, has a term exceeding two (2) years;

(d) *Power supply arrangements.* Any interconnection agreement, interchange agreement, wheeling agreement, pooling agreement or similar power supply arrangement that has a term exceeding two (2) years;

(e) *System management and maintenance contracts.* Any contract for the management and operation of all or substantially all of its Electric System; or

(f) *Other contracts.* Any contracts of the type described on Schedule 3.

Section 6.6. Limitations on Mergers and Sale, Lease or Transfer of Capital Assets

(a) The Borrower shall not consolidate with, or merge, or sell all or substantially all of its business or assets, to another entity or person except to the extent it is permitted to do so under the Mortgage. The exception contained in this paragraph (a) is subject to the additional limitation set forth in paragraph (b) of this section.

(b) The Borrower shall not, without the written approval of the Administrator, voluntarily or involuntarily sell, convey or dispose of any portion of its business or assets (including, without limitation, any portion of its franchise or service territory) to another entity or person if such sale, conveyance or disposition could reasonably be expected to reduce the Borrower's existing or future requirements for energy or capacity being furnished to the Borrower under any wholesale power contract which has been pledged as security to RUS.

Section 6.7. Limitations on Using non-FDIC Insured Depositories

Without the prior written approval of RUS, the Borrower shall not place the proceeds of the Loan or any loan which has been made or guaranteed by RUS in the custody of any bank or other depository that is not insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS.

Section 6.8. Limitation on Distributions

Without the prior written approval of RUS, the Borrower shall not in any calendar year make any Distributions (exclusive of any Distributions to the estates of deceased natural patrons) to its members, stockholders or consumers except as follows:

(a) Equity above 30%. If, after giving effect to any such Distribution, the Equity of the Borrower shall be greater than or equal to 30% of its Total Assets; or

(b) Equity above 20%. If, after giving effect to any such Distribution, the aggregate of all Distributions made during the calendar year when added to such Distribution shall be less than or equal to 25% of the prior year's margins.

Provided however, that in no event shall the Borrower make any Distributions if there is unpaid when due any installment of principal of (premium, if any) or interest on its Notes, if the Borrower is otherwise in default hereunder or if, after giving effect to any such Distribution, the Borrower's current and accrued assets would be less than its current and accrued liabilities.

Section 6.9. Limitations on Loans, Investments and Other Obligations

The Borrower shall not make any loan or advance to, or make any investment in, or purchase or make any commitment to purchase any stock, bonds, notes or other securities of, or guaranty, assume or otherwise become obligated or liable with respect to the obligations of, any other person, firm or corporation, except as permitted by the Act and RUS Regulations.

Section 6.10. Depreciation Rates

The Borrower shall not file with or submit for approval of regulatory bodies any proposed depreciation rates which are inconsistent with RUS Regulations.

Section 6.11. Historic Preservation

The Borrower shall not, without approval in writing by RUS, use any Advance to construct any facilities which shall involve any district, site, building, structure or object which is included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior pursuant to the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

Section 6.12. Rate Reductions

Without the prior written approval of RUS, the Borrower shall not decrease its rates if it has failed to achieve all of the Coverage Ratios for the calendar year prior to such reduction.

Section 6.13. Limitations on Additional Indebtedness

Except as expressly permitted by Article II of the Mortgage and subject to the further limitations expressed in the next section, the Borrower shall not incur, assume, guarantee or otherwise become liable in respect of any debt for borrowed money and Restricted Rentals (including Subordinated Indebtedness) other than the following: ("Permitted Debt")

(a) Additional Notes issued in compliance with Article II of the Mortgage;

(b) Purchase money indebtedness in non-Utility System property, in an amount not exceeding 10% of Net Utility Plant;

(c) Restricted Rentals in an amount not to exceed 5% of Equity during any 12 consecutive calendar month period;

(d) Unsecured lease obligations incurred in the ordinary course of business except Restricted Rentals;

(e) Unsecured indebtedness for borrowed money, except when the aggregate amount of such indebtedness exceeds 15% of Net Utility Plant and after giving effect to such unsecured indebtedness the Borrower's Equity is less than 30% of its Total Assets;

(f) Debt represented by dividends declared but not paid; and

(g) Subordinated Indebtedness approved by RUS.

PROVIDED, However, that the Borrower may incur Permitted Debt without the consent of RUS only so long as there exists no Event of Default hereunder and there has been no continuing occurrence which with the passage of time and giving of notice could become an Event of Default hereunder.

PROVIDED, FURTHER, by executing this Agreement any consent of RUS that the Borrower would otherwise be required to obtain under this Section is hereby deemed to be given or waived by RUS by operation of law to the extent, but only to the extent, that to impose such a requirement of RUS consent would clearly violate federal laws or RUS Regulations.

Section 6.14. Limitations on Issuing Additional Indebtedness Secured Under the Mortgage

(a) The Borrower shall not issue any Additional Notes under the Mortgage to finance Eligible Property Additions without the prior written consent of RUS unless the following additional requirements are met in addition to the requirements set forth in the Mortgage for issuing Additional Notes:

(1) The weighted average life of the loan evidenced by such Notes does not exceed the weighted average of the expected remaining useful lives of the assets being financed;

(2) The principal of the loan evidenced by such Notes is amortized at a rate that shall yield a weighted average life that is not greater than the weighted average life that would result from level payments of principal and interest; and

(3) The principal of the loan being evidenced by such Notes has a maturity of not less than 5 years.

(b) The Borrower shall not issue any Additional Notes under the Mortgage to refund or refinance Notes without the prior written consent of RUS unless, in addition to the requirements set forth in the Mortgage for issuing Refunding or Refinancing Notes, the weighted average life of any such Refunding or Refinancing Notes is not greater than the weighted average remaining life of the Notes being refinanced.

(c) Any request for consent from RUS under this section, shall be accompanied by a certificate of the Borrower's manager substantially in the form attached to this Agreement as Exhibit C-1 in the case of Notes being issued under Section [2.01] of the Mortgage and C-2 in the case of Notes being issued under Section [2.02] of the Mortgage.

Section 6.15. Impairment of Contracts Pledged to RUS

The Borrower shall not materially breach any obligation to be paid or performed by

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the Borrower on any contract, or take any action which is likely to materially impair the value of any contract, which has been pledged as security to RUS by the Borrower or any other entity.

Section 6.16. Additional Negative Covenants

The Borrower also agrees to comply with any additional negative covenant(s) identified in Schedule 1 hereto.

ARTICLE VII—DEFAULT

Section 7.1. Events of Default

The following shall be Events of Default under this Agreement:

(a) *Representations and Warranties.* Any representation or warranty made by the Borrower in Article II hereof or any certificate furnished to RUS hereunder or under the Mortgage shall prove to have been incorrect in any material respect at the time made and shall at the time in question be untrue or incorrect in any material respect and remain uncured;

(b) *Payment.* Default shall be made in the payment of or on account of interest on or principal of the Note when and as the same shall be due and payable, whether by acceleration or otherwise, which shall remain unsatisfied for five (5) Business Days;

(c) *Borrowing Under the Mortgage in Violation of the Loan Contract.* Default by the Borrower in the observance or performance of any covenant or agreement contained in Section 6.14 of this Agreement.

(d) *Other Covenants.* Default by the Borrower in the observance or performance of any other covenant or agreement contained in any of the Loan Documents, which shall remain unremedied for 30 calendar days after written notice thereof shall have been given to the Borrower by RUS;

(e) *Corporate Existence.* The Borrower shall forfeit or otherwise be deprived of its corporate charter, franchises, permits, easements, consents or licenses required to carry on any material portion of its business;

(f) *Other Obligations.* Default by the Borrower in the payment of any obligation, whether direct or contingent, for borrowed money or in the performance or observance of the terms of any instrument pursuant to which such obligation was created or securing such obligation;

(g) *Bankruptcy.* A court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Borrower in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of ninety (90) consecutive days or the Borrower shall

commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian or trustee, of a substantial part of its property, or make any general assignment for the benefit of creditors; and

(h) *Dissolution or Liquidation.* Other than as provided in the immediately preceding subsection, the dissolution or liquidation of the Borrower, or failure by the Borrower promptly to forestall or remove any execution, garnishment or attachment of such consequence as shall impair its ability to continue its business or fulfill its obligations and such execution, garnishment or attachment shall not be vacated within 30 days. The term “dissolution or liquidation of the Borrower”, as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Borrower resulting either from a merger or consolidation of the Borrower into or with another corporation following a transfer of all or substantially all its assets as an entirety, under the conditions permitting such actions.

ARTICLE VIII—REMEDIES

Section 8.1. Generally

Upon the occurrence of an Event of Default, then RUS may pursue all rights and remedies available to RUS that are contemplated by this Agreement or the Mortgage in the manner, upon the conditions, and with the effect provided in this Agreement or the Mortgage, including, but not limited to, a suit for specific performance, injunctive relief or damages. Nothing herein shall limit the right of RUS to pursue all rights and remedies available to a creditor following the occurrence of an Event of Default listed in Article VII hereof. Each right, power and remedy of RUS shall be cumulative and concurrent, and recourse to one or more rights or remedies shall not constitute a waiver of any other right, power or remedy.

Section 8.2. Suspension of Advances

In addition to the rights, powers and remedies referred to in the immediately preceding section, RUS may, in its absolute discretion, suspend making Advances hereunder if (i) any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing; (ii) there has occurred a change in the business or condition, financial or otherwise, of the Borrower which in the opinion of RUS materially and adversely affects the Borrower's ability to meet its obligations under the Loan Documents, or (iii) RUS is authorized to do so under RUS Regulations.

ARTICLE IX—MISCELLANEOUS

Section 9.1. Notices

All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Agreement shall be given or made in writing (including, without limitation, by telecopy) and delivered to the intended recipient at the “Address for Notices” specified below; or, as to any party, at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as provided for herein. The Address for Notices of the respective parties are as follows:

Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500

Fax: (202) xxx-xxxx

Attention: [Administrator]

The Borrower:

The address set forth in Schedule 1 hereto

Section 9.2. Expenses

To the extent allowed by law, the Borrower shall pay all costs and expenses of RUS, including reasonable fees of counsel, incurred in connection with the enforcement of the Loan Documents or with the preparation for such enforcement if RUS has reasonable grounds to believe that such enforcement may be necessary.

Section 9.3. Late Payments

If payment of any amount due hereunder is not received at the United States Treasury in Washington, DC, or such other location as RUS may designate to the Borrower within five (5) Business Days after the due date thereof or such other time period as RUS may prescribe from time to time in its policies of general application in connection with any late payment charge (such unpaid amount being herein called the “delinquent amount”, and the period beginning after such due date until payment of the delinquent amount being herein called the “late-payment period”), the Borrower shall pay to RUS, in addition to all other amounts due under the terms of the Note, the Mortgage and this Agreement, any late-payment charge as may be fixed by RUS Regulations from time to time on the delinquent amount for the late-payment period.

Section 9.4. Filing Fees

To the extent permitted by law, the Borrower agrees to pay all expenses of RUS (in-

cluding the fees and expenses of its counsel) in connection with the filing or recordation of all financing statements and instruments as may be required by RUS in connection with this Agreement, including, without limitation, all documentary stamps, recordation and transfer taxes and other costs and taxes incident to recordation of any document or instrument in connection herewith. Borrower agrees to save harmless and indemnify RUS from and against any liability resulting from the failure to pay any required documentary stamps, recordation and transfer taxes, recording costs, or any other expenses incurred by RUS in connection with this Agreement. The provisions of this subsection shall survive the execution and delivery of this Agreement and the payment of all other amounts due hereunder or due on the Note.

Section 9.5. No Waiver

No failure on the part of RUS to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise by RUS of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

Section 9.6. Governing Law

EXCEPT TO THE EXTENT GOVERNED BY APPLICABLE FEDERAL LAW, THE LOAN DOCUMENTS SHALL BE DEEMED TO BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE [IN WHICH THE BORROWER IS INCORPORATED].

Section 9.7. Holiday Payments

If any payment to be made by the Borrower hereunder shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

Section 9.8. Rescission

The Borrower may elect not to borrow the RUS Commitment in which event RUS shall release the Borrower from its obligations hereunder, provided the Borrower complies with such terms and conditions as RUS may impose for such release and provided also that if the Borrower has any remaining obligations to RUS for loans made or guaranteed by RUS under any Prior Loan Contracts, RUS may, under Section [9.15] of this Loan Contract, withhold such release until all such obligations have been satisfied and discharged.

Section 9.9. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the Borrower and RUS and their respective successors and assigns,

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except that the Borrower may not assign or transfer its rights or obligations hereunder without the prior written consent of RUS.

Section 9.10. Complete Agreement; Amendments

Subject to RUS Regulations, this Agreement and the other Loan Documents are intended by the parties to be a complete and final expression of their agreement. However, RUS reserves the right to waive its rights to compliance with any provision of this Agreement and the other Loan Documents. No amendment, modification, or waiver of any provision hereof or thereof, and no consent to any departure of the Borrower herefrom or therefrom, shall be effective unless approved in writing by RUS in the form of either a RUS Regulation or other writing signed by or on behalf of RUS, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 9.11. Headings

The headings and sub-headings contained in the titling of this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

Section 9.12. Severability

If any term, provision or condition, or any part thereof, of this Agreement or the Mortgage shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision or condition nor any other term, provision or condition, and this Agreement, the Note, and the Mortgage shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

Section 9.13. Right of Setoff

Upon the occurrence and during the continuance of any Event of Default, RUS is hereby authorized at any time and from time to time, without prior notice to the Borrower, to exercise rights of setoff or recoupment and apply any and all amounts held or hereafter held, by RUS or owed to the Borrower or for the credit or account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing hereunder or under the Note. RUS agrees to notify the Borrower promptly after any such setoff or recoupment and the application thereof, provided that the failure to give such notice shall not affect the validity of such setoff, recoupment or application. The rights of RUS under this section are in addition to any other rights and remedies (including other rights of setoff or recoupment) which RUS may have. Borrower

waives all rights of setoff, deduction, recoupment or counterclaim.

Section 9.14. Schedules and Exhibits

Each Schedule and Exhibit attached hereto and referred to herein is each an integral part of this Agreement.

Section 9.15. Prior Loan Contracts

It is understood and agreed that with respect to all loan agreements previously entered into by and between RUS and the Borrower (hereinafter being referred to as "Prior Loan Contracts") the Borrower shall be required, after the date hereof, to meet affirmative and negative covenants as set forth in this Agreement rather than those set forth in the Prior Loan Contracts. In addition, any remaining obligation of RUS to make additional advances on promissory notes of the Borrower that have been previously delivered to RUS under Prior Loan Contracts shall, after the date hereof, be subject to the conditions set forth in this Agreement. In the event of any conflict between any provision set forth in a Prior Loan Contract and any provision in this Agreement, the requirements as set forth in this Agreement shall apply. Nothing in this section shall, however, eliminate or modify any special condition, special affirmative covenant or special negative covenant, if any, unless specifically agreed to in writing by RUS.

Section 9.16. Authority of Representatives of RUS

In the case of any consent, approval or waiver from RUS that is required under this Agreement or any other Loan Document, such consent, approval or waiver must be in writing and signed by an authorized RUS representative to be effective. As used in this section, "authorized RUS representative" means the Administrator of RUS, and also means a person to whom the Administrator has officially delegated specific or general authority to take the action in question.

Section 9.17. Term

This Agreement shall remain in effect until one of the following two events has occurred:

- (a) The Borrower and RUS replace this Agreement with another written agreement; or
- (b) All of the Borrower's obligations under the prior loan contracts and this Agreement have been discharged and paid.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

(Name of Borrower)
(SEAL)

By _____
President
Attest: _____
Secretary

RURAL UTILITIES SERVICE

By _____
Administrator

SCHEDULE 1

[citations subject to change]

1. The purpose of this loan is _____ and such other purposes that RUS may agree to in writing in order to carry out the purposes of the Rural Electrification Act.

2. The Mortgage shall mean the Restated Mortgage and Security Agreement, dated as of _____, between the Borrower and RUS, as it may have been or shall be supplemented, amended, consolidated, or restated from time to time.

3. The governmental authority referred to in Section [2.1(c)] is _____.

4. The exception being taken to the representations in Section [2.1(e)] concerning material compliance with laws is as follows: _____.

5. The litigation referred to in Section [2.1(f)] is described as follows: _____.

6. The date of the Borrower's financial information referred to in Section [2.1(h)] is _____.

7. The principal place of business of the Borrower referred to in Section [2.1(i)] is _____.

8. All of the property of the Borrower is located in the counties of _____.

9. The subsidiary (or subsidiaries) referred to in Section [2.1(k)] is (are): _____.

10. The Contemporaneous Loan referred to in Section [5.3] is described as follows: _____.

Lender: _____

Amount: _____

Year of Final Maturity: _____

11. The RUS Commitment referred to in the definitions means a loan in the principal amount of \$ _____ which is being made by RUS to the Borrower at the _____ Hardship Rate _____ Municipal Rate (CHECK ONE) pursuant to the Rural Electrification Act and RUS Regulations.

12. Amortization of Advance shall be based upon the method indicated below:

- _____ level principal
- _____ level debt service
- _____ other

13. The SPECIAL condition(s) referred to in Section [4.2] is (are): _____.

14. The additional AFFIRMATIVE covenant(s) referred to in Section [5.22] is (are)

as follows: _____.

15. The additional NEGATIVE covenant(s) referred to in Section [6.16] is (are) as follows: _____.

16. The address of the Borrower referred to in Section [9.1] is _____.

SCHEDULE 2—EXISTING LIENS

The Existing Liens referred to in Section [2.1(g)] are as follows:

[INSERT DESCRIPTION OF EXISTING LIENS, IF ANY, HERE]

SCHEDULE 3—ADDITIONAL CONTRACTS

The additional contracts referred to in Section [6.5(f)] are described as follows:

[INSERT LIST OF ANY ADDITIONAL CONTRACTS HERE]

EXHIBIT A—FORM OF PROMISSORY NOTE

[INSERT EITHER MUNICIPAL or HARD-SHIP RATE PROMISSORY NOTE FORM HERE]

EXHIBIT B—EQUAL OPPORTUNITY CONTRACT PROVISIONS

During the performance of this contract, the contractor agrees as follows:

(a) The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) The contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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(d) The contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(e) The contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliances with such rules, regulations and orders.

(f) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(g) The contractor shall include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, dated September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT C-1—MANAGER'S CERTIFICATE REQUIRED UNDER LOAN CONTRACT SECTION 6.14 FOR ADDITIONAL NOTES

On behalf on _____ [Name of Borrower] I hereby certify that the Additional Note or Notes to be issued under Section [2.01] of the Mortgage on or about _____ [Date Note or Notes are to be Signed] meet all of the requirements of Section [6.14] of the Loan Contract, namely:

(a) The weighted average life of the loan evidenced by such Notes (_____ years) does not exceed the weighted average of the expected remaining useful lives of the assets being financed (_____ years) as evidenced

by the attached calculation of said weighted average lives.

(b) The principal of the loan evidenced by such Notes shall either be [check one and provide evidence in the second case]:

_____ (1) repaid based on level payments of principal and interest throughout the life of the loan, or

_____ (2) amortized at a rate that shall yield a weighted average life that is not greater than the weighted average life that would result from level payments of principal and interest throughout the life of the loan as evidenced by the attached analysis of said weighted average lives.

(c) The principal of the loan evidenced by such Notes has a maturity of not less than 5 years.

[Signed] _____
[Dated] _____
[Name] _____
[Title] _____
[Name and Address of Borrower] _____

EXHIBIT C-2—MANAGER'S CERTIFICATE REQUIRED UNDER LOAN CONTRACT SECTION 6.14 FOR REFINANCING NOTES

On behalf on _____ [Name of Borrower] I hereby certify that the Additional Note or Notes to be issued under Section [2.02] of the Mortgage on or about _____ [Date Note or Notes are to be Signed] meet the requirement of Section [6.14] of the Loan Contract that the weighted average life of such Notes is not greater than the weighted average remaining life of the Notes being refinanced, as evidenced by the attached calculation of said weighted average lives.

[Signed] _____
[Dated] _____
[Name] _____
[Title] _____
[Name and Address of Borrower] _____

[60 FR 67410, Dec. 29, 1995, as amended at 65 FR 51749, Aug. 25, 2000]

PART 1719—RURAL ENERGY SAVINGS PROGRAM

Subpart A—General Provisions

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