

ORIGINAL

Law Offices of Christopher Hitchcock, F

1 Copper Queen Plaza

P.O. Box AT

Bisbee, Arizona 85603-0115

Phone: (520) 432-2279

Fax: (520) 432-5152

email: lawyers@bisbeelaw.com



0000081393

50

January 31, 2008

**VIA FEDERAL EXPRESS**

Docket Control Center  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Re: **Sulphur Springs Valley Electric Cooperative, Inc.**  
**Application for Authorization to Incur Debt to Finance its**  
**Construction Work Plan and for Related Approvals**  
**Docket No. E-01575A-07-0446**

Dear Sir/Madam:

In compliance with Decision No. 70027, I have enclosed the original and thirteen copies of the Notice of Compliance Filing.

Also enclosed is an additional copy to be file stamped for our file and returned to me in the stamped, self-addressed envelope provided.

If you have any questions, please contact the undersigned. Thank you.

Sincerely,



Christopher Hitchcock

/cjl

Enclosures

cc: Kirby Chapman, CFO (w/o enc)  
Creden Huber, CEO (w/o enc)  
Bradley S. Carroll, Esq. (w/enc)

Arizona Corporation Commission  
**DOCKETED**

FEB -1 2008

DOCKETED BY 

1 Law Offices of Christopher Hitchcock, P.L.C.  
1 Copper Queen Plaza  
2 Post Office Box AT  
Bisbee, Arizona 85603-0115  
3 (520) 432-2279

4 Attorney for Sulphur Springs  
Valley Electric Cooperative, Inc.

5 **BEFORE THE ARIZONA CORPORATION COMMISSION**

6 **COMMISSIONERS**

7 **MIKE GLEASON, Chairman**  
8 **WILLIAM A. MUNDELL**  
9 **JEFF HATCH-MILLER**  
10 **KRISTEN K. MAYES**  
11 **GARY PIERCE**

12 IN THE MATTER OF THE APPLICATION )  
13 OF SULPHUR SPRINGS VALLEY ELECTRIC )  
14 COOPERATIVE, INC., AN ARIZONA )  
NONPROFIT CORPORATION, FOR )  
AUTHORIZATION TO INCUR DEBT TO )  
FINANCE ITS CONSTRUCTION WORK PLAN )  
AND FOR RELATED APPROVALS. )

Docket No. E-01575A-07-0446

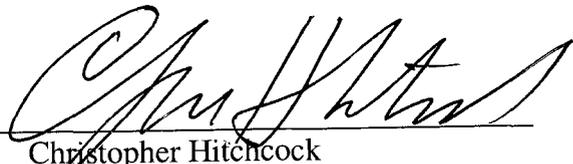
**NOTICE OF COMPLIANCE  
FILING**

15 In compliance with Decision No. 70027, attached are the following executed financing  
16 documents between Sulphur Springs Valley Electric Cooperative, Inc. and National Rural Utilities  
17 Cooperative Finance Corporation:

- 18 1. Promissory Note
- 19 2. Loan Agreement
- 20 3. Restated Mortgage and Security Agreement

21 RESPECTFULLY SUBMITTED this 31st day of January, 2008.

22 LAW OFFICES OF  
CHRISTOPHER HITCHCOCK, P.L.C.

23  
24 By:   
25 Christopher Hitchcock  
26 Attorney for Sulphur Springs Valley  
Electric Cooperative, Inc.

1 Original and thirteen copies  
sent via overnight delivery this  
2 31st day of January, 2008, to:

3 Docket Control Center  
Arizona Corporation Commission  
4 1200 West Washington  
Phoenix, Arizona 85007

5  
6 Copy of the foregoing  
mailed this 31st day of  
7 January, 2008 to:

8 Compliance Section  
Arizona Corporation Commission  
9 1200 West Washington  
Phoenix, Arizona 85007

10  
11 Lyn Farmer, Chief Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
12 1200 West Washington  
Phoenix, Arizona 85007

13  
14 Christopher Kempley, Chief Counsel  
Legal Division  
Arizona Corporation Commission  
15 1200 West Washington  
Phoenix, Arizona 85007

16  
17 Ernest Johnson, Director  
Utilities Division  
Arizona Corporation Commission  
18 1200 West Washington  
Phoenix, Arizona 85007

19  
20 Jane Rodda, Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
21 1200 West Washington  
Phoenix, Arizona 85007

22  
23 Gordon Fox  
Pedro Chaves  
Utilities Division  
Arizona Corporation Commission  
24 1200 West Washington  
25 Phoenix, Arizona 85007

26 \* \* \*

1 Robin R. Mitchell, Esq.  
Legal Division  
2 Arizona Corporation Commission  
1200 West Washington  
3 Phoenix, Arizona 85007

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

**SECURED PROMISSORY NOTE**

\$70,780,000.00

dated as of July 6, 2007

SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC., an Arizona corporation ("Borrower"), for value received promises to pay, without setoff, deduction, recoupment or counterclaim, to the order of NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION ("Payee") at the Payee's main office in or such other place as designated by the Payee, in lawful money of the United States, the sum of the aggregate unpaid principal amount of all Advances (as defined in the Loan Agreement referred to herein) made by the Payee pursuant to the Loan Agreement dated as of even date herewith, between the Borrower and the Payee, as it may be amended from time to time (the "Loan Agreement"), on the dates provided in the Loan Agreement, *provided, however*, that if not sooner paid as provided in the Loan Agreement, then any balance shall be due and payable on the date that is forty (40) years from the date hereof (such date being the Maturity Date hereof), *provided, further, however*, that if such date is not a Payment Date (as defined in the Loan Agreement), then the Maturity Date shall be the Payment Date immediately preceding such date, with interest thereon in like money from the respective dates of each Advance hereunder, at the rate or rates and payable at the times provided in said Loan Agreement together with any other amount payable under the Loan Agreement.

This Note is secured under a Restated Mortgage and Security Agreement dated as of even date herewith between the Borrower and the Payee, as it may have been or shall be supplemented, amended, consolidated or restated from time to time ("Mortgage"). This Note is one of the Notes referred to in, and has been executed and delivered pursuant to, the Loan Agreement.

The principal hereof and interest accrued thereon and any other amount due under the Loan Agreement may be declared to be forthwith due and payable in the manner, upon the conditions, and with the effect provided in the Mortgage or the Loan Agreement.

The Borrower waives demand, presentment for payment, notice of dishonor, protest, notice of protest, and notice of non-payment of this Note.

IN WITNESS WHEREOF the Borrower has caused this Note to be signed in its corporate name and its corporate seal to be hereunto affixed and to be attested by its duly authorized officers, all as of the day and year first above written.

SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE,  
INC.

(SEAL)

By: *Rene Manning*  
Title: *President of the Board*

Attest: *Creden W. Huber*  
~~Secretary~~ **CREDEN W. HUBER**  
**CHIEF EXECUTIVE OFFICER**

Loan No. AZ014-V-9033

## LOAN AGREEMENT

**LOAN AGREEMENT** (this "Agreement") dated as of April 3, 2007, between SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC. ("Borrower"), a corporation organized and existing under the laws of the State of Arizona and NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION ("CFC"), a cooperative association organized and existing under the laws of the District of Columbia.

### RECITALS

**WHEREAS**, the Borrower has applied to CFC for a loan for the purposes set forth in Schedule 1 hereto, and CFC is willing to make such a loan to the Borrower on the terms and conditions stated herein; and

**WHEREAS**, the Borrower has agreed to execute one or more promissory notes to evidence an indebtedness in the aggregate principal amount of the CFC Commitment (as hereinafter defined).

**NOW, 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

**Section 1.01** For purposes of this Agreement, the following capitalized terms shall have the following meanings (such definitions to be equally applicable to the singular and the plural form thereof). Capitalized terms that are not defined herein shall have the meanings as set forth in the Mortgage.

**"Accounting Requirements"** shall mean any system of accounts prescribed by a federal regulatory authority having jurisdiction over the Borrower or, in the absence thereof, the requirements of GAAP applicable to businesses similar to that of the Borrower.

**"Advance"** shall mean each advance of funds by CFC to the Borrower pursuant to the terms and conditions of this Agreement.

**"Amortization Basis Date"** shall mean the first calendar day of the month following the end of the Billing Cycle in which the Advance occurs, provided, however, that if the Advance is made on the first day of a Billing Cycle, and such day is a Business Day, then the Amortization Basis Date shall be the date of the Advance.

**"Average DSC Ratio"** shall mean the average of the Borrower's two highest annual DSC Ratios during the most recent three calendar years.

**"Billing Cycle"** shall mean any 3-month period ending on, and including, a Payment Date.

**"Business Day"** shall mean any day that both CFC and the depository institution CFC utilizes for funds transfers hereunder are open for business.

**"CFC Commitment"** shall have the meaning as defined in Schedule 1.

**"CFC Fixed Rate"** shall mean such fixed rate as is then available for loans similarly classified pursuant to CFC's policies and procedures then in effect.

**"CFC Fixed Rate Term"** shall mean the specific period of time that a CFC Fixed Rate is in effect for an Advance.

**"CFC Variable Rate"** shall mean the rate established by CFC for variable interest rate long-term loans similarly classified pursuant to the long-term loan programs established by CFC from time to time.

**"Conversion Request"** shall mean a written request from any duly authorized official of the Borrower, in form and substance satisfactory to CFC, that requests an interest rate conversion.

**"Debt Service Coverage ("DSC") Ratio"** shall mean the ratio determined as follows: for any calendar year add (i) Operating Margins, (ii) Non-Operating Margins--Interest, (iii) Interest Expense, (iv) Depreciation and Amortization Expense, and (v) cash received in respect of generation and transmission and other capital credits, and divide the sum so obtained by the sum of all payments of Principal and Interest Expense required to be made during such calendar year; provided, however, that in the event that any amount of Long-Term Debt has been refinanced during such year, the payments of Principal and Interest Expense required to be made during such year on account of such refinanced amount of Long-Term Debt shall be based (in lieu of actual payments required to be made on such refinanced amount of Long-Term Debt) upon the larger of (i) an annualization of the payments required to be made with respect to the refinancing debt during the portion of such year such refinancing debt is outstanding or (ii) the payment of Principal and Interest Expense required to be made during the following year on account of such refinancing debt.

**"Default Rate"** shall mean a rate per annum equal to the interest rate in effect for an Advance plus three hundred basis points.

**"Depreciation and Amortization Expense"** shall mean an amount constituting the depreciation and amortization of the Borrower computed pursuant to Accounting Requirements.

**"Distributions"** shall mean, with respect to the Borrower, any dividend, patronage refund, patronage capital retirement or cash distribution to its members, or consumers (including but not limited to any general cancellation or abatement of charges for electric energy or services furnished by the Borrower). The term "Distribution" shall *not* include (a) a distribution by the Borrower to the estate of a deceased patron, (b) repayment by the Borrower of a membership fee upon termination of a membership, or (c) any rebate to a patron resulting from a cost abatement received by the Borrower, such as a reduction of wholesale power cost previously incurred.

**"Draw Period"** shall have the meaning as described in Schedule 1 hereto.

**"Environmental Laws"** shall mean all laws, rules and regulations promulgated by any Governmental Authority, with which Borrower is required to comply, regarding the use, treatment, discharge, storage, management, handling, manufacture, generation, processing, recycling, distribution, transport, release of or exposure to any Hazardous Material.

**"Equity"** shall mean the aggregate of the Borrower's equities and margins computed pursuant to Accounting Requirements.

**"Event of Default"** shall have the meaning as described in Article VI hereof.

**"GAAP"** shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

**"Governmental Authority"** shall mean the government of the United States of America, any other nation or government, any state or other political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

**"Hazardous Material"** shall mean any (a) petroleum or petroleum products, radioactive materials, asbestos-containing materials, polychlorinated biphenyls, lead and radon gas, and (b) any other substance designated as hazardous or toxic or as a pollutant or contaminant under any Environmental Law.

**"Interest Expense"** shall mean an amount constituting the interest expense with respect to Long-Term Debt of the Borrower computed pursuant to Accounting Requirements. In computing Interest Expense, there shall be added, to the extent not otherwise included, an amount equal to 33-1/3% of the excess of Restricted Rentals paid by the Borrower over 2% of the Borrower's Equity.

**"Lien"** shall mean any statutory or common law consensual or non-consensual mortgage, pledge, security interest, encumbrance, lien, right of set off, claim or charge of any kind, including, without limitation, any conditional sale or other title retention transaction, any lease transaction in the nature thereof and any secured transaction under the Uniform Commercial Code.

**"Loan"** shall mean the loan made by CFC to the Borrower, pursuant to this Agreement and the Note, in an aggregate principal amount not to exceed the CFC Commitment.

**"Loan Capital Term Certificate" or "LCTC"** shall mean a certificate, or book entry form of account, evidencing the Borrower's purchase of equity in CFC.

**"Loan Documents"** shall mean this Agreement, the Note, the Mortgage and all other documents or instruments executed, delivered or executed and delivered by the Borrower and evidencing, securing, governing or otherwise pertaining to, the Loan.

**"Long-Term Debt"** shall mean an amount constituting the long-term debt of the Borrower computed pursuant to Accounting Requirements.

**"Maturity Date"** with respect to each Note shall have the meaning ascribed to it therein.

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

**"Mortgaged Property"** shall have the meaning ascribed to it in the Mortgage.

**"Non-Operating Margins--Interest"** shall mean the amount representing the interest component of non-operating margins of the Borrower computed pursuant to Accounting Requirements.

**"Note"** shall mean each secured promissory note, payable to the order of CFC, executed by the Borrower, dated as of even date herewith, pursuant to this Agreement as identified on Schedule 1 hereto.

**"Obligations"** shall mean any and all liabilities, obligations or indebtedness owing by the Borrower to CFC, of any kind or description, irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising.

**"Operating Margins"** shall mean the amount of patronage capital and operating margins of the Borrower computed pursuant to Accounting Requirements.

**"Payment Date"** shall mean the last day of each of the months referred to in Schedule 1.

**"Payment Notice"** shall mean a notice furnished by CFC to the Borrower that indicates the amount of each payment of interest or interest and principal and the total amount of each payment due.

**"Permitted Encumbrances"** shall have the meaning ascribed to it in the Mortgage.

**"Person"** shall mean natural persons, cooperatives, corporations, limited liability companies, limited partnerships, general partnerships, limited liability partnerships, joint ventures, associations, companies, trusts or other organizations, irrespective of whether they are legal entities, and Governmental Authorities.

**"Principal"** shall mean the amount of principal billed on account of Long-Term Debt of the Borrower computed pursuant to Accounting Requirements.

**"Prior Loan Documents"** shall mean, collectively, all long term loan agreements entered into prior to the date hereof by and between CFC and the Borrower, and all promissory notes delivered pursuant thereto secured under the Mortgage.

**"Restricted Rentals"** shall mean all rentals required to be paid under finance leases and charged to income, exclusive of any amounts paid under any such lease (whether or not designated therein as rental or additional rental) for maintenance or repairs, insurance, taxes, assessments, water rates or similar charges. For the purpose of this definition the term "finance lease" shall mean any lease having a rental term (including the term for which such lease may be renewed or extended at the option of the lessee) in excess of three (3) years and covering property having an initial cost in excess of \$250,000 other than automobiles, trucks, trailers, other vehicles (including without limitation aircraft and ships), office, garage and warehouse space and office equipment (including without limitation computers).

**"Subsidiary"** as to any Person, shall mean a corporation, partnership, limited partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by

reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise qualified, all references to a "Subsidiary" or to "Subsidiaries" in this Agreement shall refer to a Subsidiary or Subsidiaries of the Borrower.

**"Total Assets"** shall mean an amount constituting the total assets of the Borrower computed pursuant to Accounting Requirements.

**"Total Utility Plant"** shall mean the amount constituting the total utility plant of the Borrower computed pursuant to Accounting Requirements.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

**Section 2.01** The Borrower represents and warrants to CFC that as of the date of this Agreement:

**A. Good Standing.** The Borrower is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, is duly qualified to do business and is in good standing in those states in which it is required to be qualified to conduct its business. The Borrower is a member in good standing of CFC.

**B. Subsidiaries and Ownership.** Schedule 1 hereto sets forth a complete and accurate list of the Subsidiaries of the Borrower showing the percentage of the Borrower's ownership of the outstanding stock, membership interests or partnership interests, as applicable, of each Subsidiary.

**C. Authority; Validity.** The Borrower has the power and authority to enter into this Agreement, the Note and the Mortgage; to make the borrowing hereunder; to execute and deliver all documents and instruments required hereunder and to incur and perform the obligations provided for herein, in the Note and in the Mortgage, all of which have been duly authorized by all necessary and proper action; and no consent or approval of any Person, including, as applicable and without limitation, members of the Borrower, which has not been obtained is required as a condition to the validity or enforceability hereof or thereof.

Each of this Agreement, the Note and the Mortgage is, and when fully executed and delivered will be, legal, valid and binding upon the Borrower and enforceable against the Borrower in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity.

**D. No Conflicting Agreements.** The execution and delivery of the Loan Documents and performance by the Borrower of the obligations thereunder, and the transactions contemplated hereby or thereby, will not: (i) violate any provision of law, any order, rule or regulation of any court or other agency of government, any award of any arbitrator, the articles of incorporation or by-laws of the Borrower, or any indenture, contract, agreement, mortgage, deed of trust or other instrument to which the Borrower is a party or by which it or any of its property is bound; or (ii) be in conflict

with, result in a breach of or constitute (with due notice and/or lapse of time) a default under, any such award, indenture, contract, agreement, mortgage, deed of trust or other instrument, or result in the creation or imposition of any Lien (other than contemplated hereby) upon any of the property or assets of the Borrower.

The Borrower is not in default in any material respect under any agreement or instrument to which it is a party or by which it is bound and no event or condition exists which constitutes a default, or with the giving of notice or lapse of time, or both, would constitute a default under any such agreement or instrument.

**E. Taxes.** The Borrower, and each of its Subsidiaries, has filed or caused to be filed all federal, state and local tax returns which are required to be filed and has paid or caused to be paid all federal, state and local taxes, assessments, and governmental charges and levies thereon, including interest and penalties to the extent that such taxes, assessments, and governmental charges and levies have become due, except for such taxes, assessments, and governmental charges and levies which the Borrower or any Subsidiary is contesting in good faith by appropriate proceedings for which adequate reserves have been set aside.

**F. Licenses and Permits.** The Borrower has duly obtained and now holds all licenses, permits, certifications, approvals and the like necessary to own and operate its property and business that are required by Governmental Authorities and each remains valid and in full force and effect.

**G. Litigation.** There are no outstanding judgments, suits, claims, actions or proceedings pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower, its Subsidiaries or any of their respective properties which, if adversely determined, either individually or collectively, would have a material adverse effect upon the business, operations, prospects, assets, liabilities or financial condition of the Borrower or its Subsidiaries. The Borrower and its Subsidiaries are not, to the Borrower's knowledge, in default or violation with respect to any judgment, order, writ, injunction, decree, rule or regulation of any Governmental Authority which would have a material adverse effect upon the business, operations, prospects, assets, liabilities or financial condition of the Borrower or its Subsidiaries.

**H. Financial Statements.** The balance sheet of the Borrower as at the date identified in Schedule 1 hereto, the statement of operations of the Borrower for the period ending on said date, and the interim financial statements of the Borrower, all heretofore furnished to CFC, are complete and correct. Said balance sheet fairly presents the financial condition of the Borrower as at said date and said statement of operations fairly reflects its operations for the period ending on said date. The Borrower has no contingent obligations or extraordinary forward or long-term commitments except as specifically stated in said balance sheet or herein. There has been no material adverse change in the financial condition or operations of the Borrower from that set forth in said financial statements except changes disclosed in writing to CFC prior to the date hereof.

**I. Borrower's Legal Status.** Schedule 1 hereto accurately sets forth: (i) the Borrower's exact legal name, (ii) the Borrower's organizational type and jurisdiction of organization, (iii) the Borrower's organizational identification number or accurate statement that the Borrower has none, and (iv) the Borrower's place of business or, if more than one, its chief executive office as well as the Borrower's mailing address if different.

**J. Required Approvals.** No license, consent or approval of any Governmental Authority is required to enable the Borrower to enter into this Agreement, the Note and the Mortgage, or to perform any of its Obligations provided for in such documents, including without limitation (and if applicable), that of any state public utilities commission, any state public service commission, and the Federal Energy Regulatory Commission, except as disclosed in Schedule 1 hereto, all of which the Borrower has obtained prior to the date hereof.

**K. Compliance With Laws.** The Borrower and each Subsidiary is in compliance, in all material respects, with all applicable requirements of law and all applicable rules and regulations of each Governmental Authority.

**L. Disclosure.** To the Borrower's knowledge, information and belief, neither this Agreement nor any document, certificate or financial statement furnished to CFC by or on behalf of the Borrower in connection herewith (all such documents, certificates and financial statements, taken as a whole) contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements contained herein and therein not misleading.

**M. No Other Liens.** As to property which is presently included in the description of Mortgaged Property, the Borrower has not, without the prior written approval of CFC, executed or authenticated any security agreement or mortgage, or filed or authorized any financing statement to be filed with respect to assets owned by it, other than security agreements, mortgages and financing statements in favor of CFC, except as disclosed in writing to CFC prior to the date hereof or relating to Permitted Encumbrances.

**N. Environmental Matters.** Except as to matters which individually or in the aggregate would not have a material adverse effect upon the business or financial condition of the Borrower or its Subsidiaries, (i) Borrower is in compliance with all Environmental Laws (including, but not limited to, having any required permits and licenses), (ii) there have been no releases (other than releases remediated in compliance with Environmental Laws) from any underground or aboveground storage tanks (or piping associated therewith) that are or were present at the Mortgaged Property, (iii) Borrower has not received written notice or claim of any violation of any Environmental Law, (iv) there is no pending investigation of Borrower in regard to any Environmental Law, and (v) to the best of Borrower's knowledge, there has not been any release or contamination (other than releases or contamination remediated in compliance with Environmental Laws) resulting from the presence of Hazardous Materials on property owned, leased or operated by the Borrower.

### ARTICLE III

#### LOAN

**Section 3.01 Advances.** The Borrower shall submit its request for an Advance to CFC in writing (which may be submitted by facsimile) no later than 12:00 noon local time at CFC's offices in Herndon, Virginia on the Business Day prior to the Business Day the Borrower seeks to have funds advanced.

At the end of the Draw Period, CFC shall have no further obligation to make Advances. The obligation of the Borrower to repay the Advances shall be evidenced by one or more Notes.

**Section 3.02 Interest Rate and Payment.** Notes shall be payable and bear interest as follows:

**A. Payments; Maturity; Amortization.**

(i) Each Note shall have a Maturity Date that is not more than forty (40) years from the date hereof, *provided, however*, that if such date is not a Payment Date, then the Maturity Date shall be the Payment Date immediately preceding such date.

(ii) Prior to or at the time of each Advance, the Borrower shall elect, with respect to such Advance, (1) an amortization method for principal, or (2) not to amortize principal. If no election is made, then the Advance shall amortize over a period ending on the earlier of the date that is thirty-five (35) years from the date of such Advance and the Maturity Date.

(a) *Amortizing Advances:* Each Advance that the Borrower elects to amortize shall amortize over a period not to exceed thirty-five (35) years from the date of such Advance, *provided, however*, that such period shall not extend beyond the Maturity Date. For each Advance, the Borrower shall promptly pay interest in the amount shown in the Payment Notice on each Payment Date until the first Payment Date of the Billing Cycle in which the Amortization Basis Date occurs. On such Payment Date, and on each Payment Date thereafter, the Borrower shall promptly pay interest and principal in the amounts shown in the Payment Notice. If not sooner paid, any amount due on account of the unpaid principal, interest accrued thereon and fees, if any, shall be due and payable on the Maturity Date. The amortization method for each Advance shall be as stated on Schedule 1 or, if not so stated, then as stated on the written requisition for such Advance submitted by the Borrower to CFC pursuant to the terms hereof.

(b) *Non-Amortizing Advances:* Each Advance that the Borrower elects not to amortize shall be repaid within thirty-five (35) years from the date of such Advance, or the Maturity Date, whichever is earlier. On each Payment Date, the Borrower shall promptly pay interest only until the final Payment Date corresponding to the term of such Advance, or the Maturity Date (whichever is applicable), upon which date all unpaid principal, interest accrued thereon and fees, if any, shall be due and payable. If the term of a non-amortizing Advance ends on a date that is not a Payment Date, then the repayment of such Advance shall be due and payable on the Payment Date immediately preceding such date.

(iii) CFC will furnish to the Borrower a Payment Notice at least ten (10) days before each Payment Date, provided, however, that CFC's failure to send a Payment Notice shall not constitute a waiver by CFC or be deemed to relieve the Borrower of its obligation to make payments as and when due as provided for herein.

(iv) No provision of this Agreement or of any Note shall require the payment, or permit the collection, of interest in excess of the highest rate permitted by applicable law.

**B. Application of Payments.** Each payment shall be applied to the Obligations, first to any fees, costs, expenses or charges other than interest or principal, second to interest accrued, and the balance to principal.

**C. Selection of Interest Rate and Interest Rate Computation.** Prior to each Advance on a Note, the Borrower must select in writing either a CFC Fixed Rate or the CFC Variable Rate, as follows:

(i) CFC Fixed Rate. If the Borrower selects a CFC Fixed Rate for an Advance, then such rate shall be in effect for the CFC Fixed Rate Term selected by the Borrower. CFC shall provide the Borrower with at least sixty (60) days prior written or electronic notice of the date on which the CFC Fixed Rate is due to reprice. Pursuant to CFC's policies of general application for repricing, the Borrower may select any of the interest rate options then available for similarly classified borrowers repricing from a CFC Fixed Rate. If the Borrower does not select an interest rate in writing when a CFC Fixed Rate is subject to repricing, then the Advance subject to such CFC Fixed Rate shall reprice to, and shall bear interest at, the CFC Variable Rate. CFC agrees that its long-term loan policies will include a fixed interest rate option until the Maturity Date. For any Advance, the Borrower may not select a CFC Fixed Rate with a CFC Fixed Rate Term that extends beyond the Maturity Date. Interest on amortizing Advances bearing interest at a CFC Fixed Rate shall be computed for the actual number of days elapsed on the basis of a year of 365 days, until the first day of the Billing Cycle in which the Amortization Basis Date occurs; interest shall then be computed on the basis of a 30-day month and 360-day year. Interest on non-amortizing Advances bearing interest at a CFC Fixed Rate shall be computed for the actual number of days elapsed on the basis of a year of 365 days.

(ii) CFC Variable Rate. If the Borrower selects the CFC Variable Rate for an Advance, then such CFC Variable Rate shall apply until the Maturity Date, unless the Borrower elects to convert to a CFC Fixed Rate pursuant to the terms hereof. Interest on Advances bearing interest at the CFC Variable Rate shall be computed for the actual number of days elapsed on the basis of a year of 365 days.

### **Section 3.03 Conversion of Interest Rates.**

**A. CFC Variable Rate to a CFC Fixed Rate.** The Borrower may at any time convert from the CFC Variable Rate to a CFC Fixed Rate by submitting to CFC a Conversion Request requesting that a CFC Fixed Rate apply to any outstanding Advance. The rate shall be equal to the rate of interest offered by CFC in effect on the date of the Conversion Request. The effective date of the new interest rate shall be a date determined by CFC pursuant to its policies of general application following receipt of the Conversion Request.

**B. CFC Fixed Rate to CFC Variable Rate.** The Borrower may at any time convert a CFC Fixed Rate to the CFC Variable Rate by: (i) submitting a Conversion Request requesting that the CFC Variable Rate apply to any outstanding Advance; and (ii) paying to CFC promptly upon receipt of an invoice any applicable conversion fee calculated pursuant to CFC's long-term loan policies as established from time to time for similarly classified long-term loans. The effective date of the CFC Variable Rate shall be a date determined by CFC pursuant to its policies of general application following receipt of the Conversion Request.

**C. A CFC Fixed Rate to Another CFC Fixed Rate.** The Borrower may at any time convert from a CFC Fixed Rate to another CFC Fixed Rate if the Borrower: (i) submits a Conversion Request requesting that a CFC Fixed Rate apply to any Advance and (ii) pays to CFC promptly upon receipt of an invoice any applicable conversion fee calculated pursuant to CFC's long-term loan policies as established from time to time for similarly classified long-term loans. The effective date of the new

interest rate shall be a date determined by CFC pursuant to its policies of general application following receipt of the Conversion Request.

**Section 3.04 Optional Prepayment.** The Borrower may at any time, on not less than thirty (30) days prior written notice to CFC, prepay any Advance, in whole or in part, together with the interest accrued to the date of prepayment and any prepayment premium prescribed by CFC pursuant to its policies of general application in effect from time to time.

**Section 3.05 Mandatory Prepayment.** If there is a change in the Borrower's corporate structure (including without limitation by merger, consolidation, conversion or acquisition), then upon the effective date of such change, (a) the Borrower shall no longer have the ability to request, and CFC shall have no obligation to make, Advances hereunder and (b) the Borrower shall prepay the outstanding principal balance of all Obligations, together with any accrued but unpaid interest thereon, any unpaid costs or expenses provided for herein, and a prepayment premium prescribed by CFC pursuant to its policies of general application in effect from time to time.

Notwithstanding the foregoing, Borrower shall retain the ability to request, and CFC shall retain the obligation to make, Advances hereunder and no prepayment shall be required under this Section 3.05 if, after giving effect to such change, Borrower, or its successor in interest, is engaged in the furnishing of electric utility services to its members and patrons for their use as ultimate consumers and is organized as a cooperative, nonprofit corporation, public utility district, municipality, or other public governmental body.

**Section 3.06 Default Rate.** If Borrower defaults on its obligation to make a payment due hereunder by the applicable Payment Date, and such default continues for thirty days thereafter, then beginning on the thirty-first day after the Payment Date and for so long as such default continues, Advances shall bear interest at the Default Rate.

## ARTICLE IV

### CONDITIONS OF LENDING

**Section 4.01** The obligation of CFC to make any Advance hereunder is subject to satisfaction of the following conditions in form and substance satisfactory to CFC:

**A. Legal Matters.** All legal matters incident to the consummation of the transactions hereby contemplated shall be satisfactory to counsel for CFC.

**B. Documents.** CFC shall have been furnished with (i) the executed Loan Documents, (ii) certified copies of all such organizational documents and proceedings of the Borrower authorizing the transactions hereby contemplated as CFC shall require, (iii) an opinion of counsel for the Borrower addressing such legal matters as CFC shall reasonably require, and (iv) all other such documents as CFC may reasonably request.

**C. Government Approvals.** The Borrower shall have furnished to CFC true and correct copies of all certificates, authorizations, consents, permits and licenses from Governmental Authorities necessary for the execution or delivery of the Loan Documents or performance by the Borrower of the obligations thereunder.

**D. Representations and Warranties.** The representations and warranties contained in Article II shall be true on the date of the making of each Advance hereunder with the same effect as though such representations and warranties had been made on such date; no Event of Default and no event which, with the lapse of time or the notice and lapse of time would become such an Event of Default, shall have occurred and be continuing or will have occurred after giving effect to each Advance on the books of the Borrower; there shall have occurred no material adverse change in the business or condition, financial or otherwise, of the Borrower; and nothing shall have occurred which in the opinion of CFC materially and adversely affects the Borrower's ability to perform its obligations hereunder.

**E. Mortgage Recordation.** The Mortgage (and any amendments, supplements or restatements as CFC may require from time to time) shall have been duly filed, recorded or indexed in all jurisdictions necessary (and in any other jurisdiction that CFC shall have reasonably requested) to provide CFC a lien, subject to Permitted Encumbrances, on all of the Borrower's real property, all in accordance with applicable law, and the Borrower shall have paid all applicable taxes, recording and filing fees and caused satisfactory evidence thereof to be furnished to CFC.

**F. UCC Filings.** Uniform Commercial Code financing statements (and any continuation statements and other amendments thereto that CFC shall require from time to time) shall have been duly filed, recorded or indexed in all jurisdictions necessary (and in any other jurisdiction that CFC shall have reasonably requested) to provide CFC a perfected security interest, subject to Permitted Encumbrances, in the Mortgaged Property which may be perfected by the filing of a financing statement, all in accordance with applicable law, and the Borrower shall have paid all applicable taxes, recording and filing fees and caused satisfactory evidence thereof to be furnished to CFC.

**G. Requisitions.** The Borrower will requisition each Advance by submitting its written requisition to CFC in the form attached as Exhibit A hereto. Requisitions for Advances shall be made only for the purposes set forth in Schedule 1 hereto.

**H. Other Information.** The Borrower shall have furnished such other information as CFC may reasonably require, including but not limited to (i) information regarding the specific purpose for an Advance and the use thereof, (ii) feasibility studies, cash flow projections, financial analyses and pro forma financial statements sufficient to demonstrate to CFC's reasonable satisfaction that after giving effect to the Advance requested, the Borrower shall continue to achieve the DSC ratio set forth in Section 5.01.A. herein, to meet all of its debt service obligations, and otherwise to perform and to comply with all other covenants and conditions set forth in this Agreement, and (iii) any other information as CFC may reasonably request. CFC's obligation to make any Advance hereunder is conditioned upon prior receipt and approval of the Borrower's written requisition and other information and documentation, if any, as CFC may have requested pursuant to this paragraph.

**I. Special Conditions.** CFC shall be fully satisfied that the Borrower has complied with all special conditions identified in Schedule 1 hereto.

**ARTICLE V**  
**COVENANTS**

**Section 5.01 Affirmative Covenants.** The Borrower covenants and agrees with CFC that until payment in full of the Note and performance of all obligations of the Borrower hereunder:

**A. Financial Ratios; Design of Rates.** The Borrower shall achieve an Average DSC Ratio of not less than 1.35. The Borrower shall not decrease its rates for electric service if it has failed to achieve a DSC Ratio of 1.35 for the calendar year prior to such reduction subject only to an order from a Governmental Authority properly exercising jurisdiction over the Borrower.

**B. Loan Proceeds.** The Borrower shall use the proceeds of this Loan solely for the purposes identified on Schedule 1 hereto.

**C. Notice.** The Borrower shall promptly notify CFC in writing of:

(i) any material adverse change in the business, operations, prospects, assets, liabilities or financial condition of the Borrower;

(ii) the institution or threat of any litigation or administrative proceeding of any nature involving the Borrower which could materially affect the business, operations, prospects, assets, liabilities or financial condition of the Borrower;

(iii) the occurrence of an Event of Default hereunder, or any event that, with the giving of notice or lapse of time, or both, would constitute an Event of Default.

**D. Default Notices.** Upon receipt of any notices with respect to a default by the Borrower under the terms of any evidence of any indebtedness with parties other than CFC or of any loan agreement, mortgage or other agreement relating thereto, the Borrower shall deliver copies of such notice to CFC.

**E. Annual Certificates.**

(i) Within one hundred twenty (120) days after the close of each calendar year, commencing with the year in which the initial Advance hereunder shall have been made, the Borrower will deliver to CFC a written statement, in form and substance satisfactory to CFC, signed by the Borrower's General Manager or Chief Executive Officer, stating that during such year, and that to the best of said person's knowledge, the Borrower has fulfilled all of its obligations under this Agreement, the Note, and the Mortgage throughout such year 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.

(ii) The Borrower shall deliver to CFC within one hundred twenty (120) days of CFC's written request, which shall be no more frequently than once every year, a certification, in form and substance satisfactory to CFC, regarding the condition of the Mortgaged Property prepared by a professional engineer satisfactory to CFC. The Borrower shall also deliver to CFC such other information as CFC may reasonably request from time to time.

**F. Loan Capital Term Certificate Purchase.** The Borrower will purchase LCTCs, if required, in an amount calculated pursuant to CFC's policies of general application and shall pay for such LCTCs as required thereby.

**G. Financial Books; Financial Reports; Right of Inspection.** The Borrower will at all times keep, and safely preserve, proper books, records and accounts in which full and true entries will be made of all of the dealings, business and affairs of the Borrower, in accordance with Accounting Requirements. When requested by CFC, the Borrower will prepare and furnish CFC from time to time, periodic financial and statistical reports on its condition and operations. All of such reports shall be in such form and include such information as may be specified by CFC. Within one hundred twenty (120) days of the end of each calendar year during the term hereof, the Borrower shall furnish to CFC a full and complete report of its financial condition and statement of its operations as of the end of such calendar year, in form and substance satisfactory to CFC. In addition, within one hundred twenty (120) days of the end of each the Borrower's fiscal years during the term hereof, the Borrower shall furnish to CFC a full and complete consolidated and consolidating report of its financial condition and statement of its operations as of the end of such fiscal year, audited and certified by independent certified public accountants nationally recognized or otherwise satisfactory to CFC and accompanied by a report of such audit in form and substance satisfactory to CFC, including without limitation a consolidated and consolidating balance sheet and the related consolidated and consolidating statements of income and cash flow. CFC, through its representatives, shall at all times during reasonable business hours and upon prior notice have access to, and the right to inspect and make copies of, any or all books, records and accounts, and any or all 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.

**H. Notice of Additional Secured Debt.** The Borrower will notify CFC promptly in writing if it incurs any additional secured indebtedness other than indebtedness to CFC or indebtedness otherwise provided for in the Mortgage.

**I. Funds Requisition.** The Borrower agrees (i) that CFC may rely conclusively upon the interest rate option, interest rate term and other written instructions submitted to CFC in the Borrower's written request for an Advance hereunder, (ii) that such instructions shall constitute a covenant under this Agreement to repay the Advance in accordance with such instructions, the applicable Note, the Mortgage and this Agreement, and (iii) to request Advances only for the purposes set forth in Schedule 1 hereto.

**J. Compliance With Laws.** The Borrower and each Subsidiary shall remain in compliance, in all material respects, with all applicable requirements of law and applicable rules and regulations of each Governmental Authority.

**K. Taxes.** The Borrower shall pay, or cause to be paid all taxes, assessments or governmental charges lawfully levied or imposed on or against it and its properties prior to the time they become delinquent, except for any taxes, assessments or charges that are being contested in good faith and with respect to which adequate reserves as determined in good faith by the Borrower have been established and are being maintained.

**L. Further Assurances.** The Borrower shall execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), which may be required under any applicable law, or which CFC may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created or intended to be created thereby. The Borrower also agrees to provide to CFC, from time to time upon request, evidence reasonably satisfactory to CFC as to the perfection and priority of the Liens created or intended to be created by the Loan Documents.

**M. Environmental Covenants.** Borrower shall:

(i) at its own cost, comply in all material respects with all applicable Environmental Laws, including, but not limited to, any required remediation; and

(ii) if it receives any written communication alleging Borrower's violation of any Environmental Law, provide CFC with a copy thereof within ten (10) Business Days after receipt, and promptly take appropriate action to remedy, cure, defend, or otherwise affirmatively respond to the matter.

**N. Limitations on Loans, Investments and Other Obligations.** The aggregate amount of all purchases, investments, loans, guarantees, commitments and other obligations described in Section 5.02.D(i). of this Agreement shall at all times be less than fifteen percent (15%) of Total Utility Plant or fifty percent (50%) of Equity, whichever is greater.

**O. Special Covenants.** The Borrower agrees that it will comply with any special covenants identified in Schedule 1 hereto.

**Section 5.02 Negative Covenants.** The Borrower covenants and agrees with CFC that until payment in full of the Note and performance of all obligations of the Borrower hereunder, the Borrower will not, directly or indirectly, without CFC's prior written consent:

**A. Limitations on Mergers.** Consolidate with, merge, or sell all or substantially all of its business or assets, or enter into an agreement for such consolidation, merger or sale, to another entity or person unless such action is either approved, as is evidenced by the prior written consent of CFC, or the purchaser, successor or resulting corporation is or becomes a member in good standing of CFC and assumes the due and punctual payment of the Note and the due and punctual performance of the covenants contained in the Mortgage and this Agreement.

**B. Limitations on Sale, Lease or Transfer of Capital Assets; Application of Proceeds.** Sell, lease or transfer (or enter into an agreement to sell, lease or transfer) any capital asset, except in accordance with this Section 5.02.B. If no Event of Default (and no event which with notice or lapse of time and notice would become an Event of Default) shall have occurred and be continuing, the Borrower may, without the prior written consent of CFC, sell, lease or transfer (or enter into an agreement to sell, lease or transfer) any capital asset in exchange for fair market value consideration paid to the Borrower if the value of such capital asset is less than five percent (5%) of Total Utility Plant and the aggregate value of capital assets sold, leased or transferred in any 12-month period is less than ten percent (10%) of Total Utility Plant. If the Borrower does sell, lease or transfer any capital assets, then the proceeds thereof (less ordinary and reasonable expenses incident to such transaction)

shall immediately (i) be applied as a prepayment of the Note, to such installments as may be designated by CFC at the time of any such prepayment; (ii) in the case of dispositions of equipment, material or scrap, applied to the purchase of other property useful in the Borrower's business, although not necessarily of the same kind as the property disposed of, which shall forthwith become subject to the lien of the Mortgage; or (iii) applied to the acquisition or construction of other property or in reimbursement of the costs of such property.

**C. Limitation on Dividends, Patronage Refunds and Other Distributions.**

(i) Make Distributions in any calendar year if, after giving effect to the Distribution, the total Equity of the Borrower will be less than twenty percent (20%) of its Total Assets.

(ii) If, after giving effect to the Distribution, the total Equity of the Borrower will be less than twenty percent (20%) of its Total Assets, then the Borrower may nevertheless make Distributions of up to thirty percent (30%) of its total margins for the preceding calendar year.

(iii) Notwithstanding anything to the contrary in subparagraphs (i) and (ii) above, the Borrower shall not make any Distribution without the prior written consent of CFC if an Event of Default under this Agreement has occurred and is continuing.

**D. Limitations on Loans, Investments and Other Obligations.**

(i) (a) Purchase, or make any commitment to purchase, any stock, bonds, notes, debentures, or other securities or obligations of or beneficial interests in, (b) make, or enter into a commitment to make, any other investment, monetary or otherwise, in, (c) make, or enter into a commitment to make, any loan to, or (d) guarantee, assume, or otherwise become liable for, or enter into a commitment to guarantee, assume, or otherwise become liable for, any obligation of any Person if, after giving effect to such purchase, investment, loan, guarantee or commitment, the aggregate amount thereof would exceed the greater of fifteen percent (15%) of Total Utility Plant or fifty percent (50%) of Equity.

(ii) The following shall not be included in the limitation of purchases, investments, loans and guarantees in (i) above: (a) bonds, notes, debentures, stock, or other securities or obligations issued by or guaranteed by the United States or any agency or instrumentality thereof; (b) bonds, notes, debentures, stock, commercial paper, subordinated capital certificates, or any other security or obligation issued by CFC or by institutions whose senior unsecured debt obligations are rated by at least two nationally recognized rating organizations in either of their two highest categories; (c) investments incidental to loans made by CFC; (d) any deposit that is fully insured by the United States; (e) loans and grants made by any Governmental Authority to the Borrower under any rural economic development program, but only to the extent that such loans and grants are non-recourse to the Borrower; and (f) unretired patronage capital allocated to the Borrower by CFC, a cooperative from which the Borrower purchases electric power, or a statewide cooperative association of which Borrower is a member.

(iii) In no event may the Borrower take any action pursuant to subsection (i) if an Event of Default under this Agreement has occurred and is continuing,

**E. Organizational Change.** Change its type of organization or other legal structure, except as permitted by Section 5.02.A. hereof, in which case the Borrower shall provide at least 30 days prior written notice to CFC together with all documentation reflecting such change as CFC may reasonably require.

**F. Notice of Change in Borrower Information.** Change its (i) state of incorporation, (ii) legal name, (iii) mailing address, or (iv) organizational identification number, if it has one, unless the Borrower provides written notice to CFC at least thirty (30) days prior to the effective date of any such change together with all documentation reflecting any such change as CFC may reasonably require.

## ARTICLE VI

### EVENTS OF DEFAULT

**Section 6.01** The following shall be "Events of Default" under this Agreement:

**A. Representations and Warranties.** Any representation or warranty made by the Borrower herein, or in any of the other Loan Documents, or in any certificate or financial statement furnished to CFC hereunder or under any of the other Loan Documents shall prove to be false or misleading in any material respect.

**B. Payment.** The Borrower shall fail to pay (whether upon stated maturity, by acceleration, or otherwise) any principal, interest, premium (if any) or other amount payable under the Note and the Loan Documents within five (5) Business Days after the due date thereof.

**C. Other Covenants.**

**(i) No Grace Period.** Failure of the Borrower to observe or perform any covenant or agreement contained in Sections 5.01.A, 5.01.B, 5.01.D, 5.01.E, 5.01.G, 5.01.I, 5.01.N or 5.02 of this Agreement.

**(ii) Thirty Day Grace Period.** Failure of the Borrower to observe or perform any other covenant or agreement contained in this Agreement or any of the other Loan Documents, which shall remain unremedied for thirty (30) calendar days after written notice thereof shall have been given to the Borrower by CFC.

**D. Legal Existence, Permits and Licenses.** The Borrower shall forfeit or otherwise be deprived of (i) its authority to conduct business in the jurisdiction in which it is organized or in any other jurisdiction where such authority is required in order for the Borrower to conduct its business in such jurisdiction or (ii) permits, easements, consents or licenses required to carry on any material portion of its business.

**E. Other CFC Obligations.** The Borrower shall be in breach or default of any Obligation, which breach or default continues uncured beyond the expiration of any applicable grace period.

**F. Other Obligations.** The Borrower shall (i) fail to make any payment of any principal, premium or any other amount due or interest on any indebtedness with parties other than CFC which shall remain unpaid beyond the expiration of any applicable grace period, or (ii) be in breach or default with respect to any other term of any evidence of any other indebtedness with parties other than CFC or of any loan agreement, mortgage or other agreement relating thereto which breach or default continues uncured beyond the expiration of any applicable grace period, if the effect of such failure, default or breach is to cause the holder or holders of that indebtedness to cause that indebtedness to become or be declared due prior to its stated maturity (upon the giving or receiving of notice, lapse of time, both or otherwise).

**G. Involuntary Bankruptcy.** An involuntary case or other proceeding shall be commenced against the Borrower seeking liquidation, reorganization or other relief with respect to it or its debts under 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 such involuntary case or other proceeding shall continue without dismissal or stay for a period of sixty (60) days; or an order for relief shall be entered against the Borrower under the federal bankruptcy laws or applicable state law as now or hereafter in effect.

**H. Insolvency.** The Borrower shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself 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, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to, or be generally unable to, pay its debts as they become due, or shall take any action to authorize any of the foregoing.

**I. Dissolution or Liquidation.** Other than as provided in subsection H. above, 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 will impair its ability to continue its business or fulfill its obligations and such execution, garnishment or attachment shall not be vacated within sixty (60) 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 set forth in Section 5.02.A.

**J. Material Adverse Change.** Any material adverse change in the business or condition, financial or otherwise, of the Borrower.

**K. Monetary Judgment.** The Borrower shall suffer any money judgment not covered by insurance, writ or warrant of attachment or similar process involving an amount in excess of \$100,000 and shall not discharge, vacate, bond or stay the same within a period of sixty (60) days.

**L. Nonmonetary Judgment.** One or more nonmonetary judgments or orders (including, without limitation, injunctions, writs or warrants of attachment, garnishment, execution, distraint, replevin or similar process) shall be rendered against the Borrower that, either individually

or in the aggregate, could reasonably be expected to have a material adverse effect upon the business, operations, prospects, assets, liabilities or financial condition of the Borrower.

## ARTICLE VII

### REMEDIES

**Section 7.01** If any of the Events of Default listed in Section 6 hereof shall occur after the date of this Agreement and shall not have been remedied within the applicable grace periods specified therein, then CFC may:

- (i) Cease making Advances hereunder;
- (ii) Declare all unpaid principal outstanding on the Note, all accrued and unpaid interest thereon, and all other Obligations to be immediately due and payable and the same shall thereupon become immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived;
- (iii) Exercise rights of setoff or recoupment and apply any and all amounts held, or hereby held, by CFC 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, including, but not limited to, patronage capital allocations and retirements, money due to Borrower from equity certificates purchased from CFC, and any membership or other fees that would otherwise be returned to Borrower. The rights of CFC under this section are in addition to any other rights and remedies (including other rights of setoff or recoupment) which CFC may have. The Borrower waives all rights of setoff, deduction, recoupment or counterclaim;
- (iv) Pursue all rights and remedies available to CFC that are contemplated by the Mortgage and the other Loan Documents in the manner, upon the conditions, and with the effect provided in the Mortgage and the other Loan Documents, including, but not limited to, a suit for specific performance, injunctive relief or damages;
- (v) Pursue any other rights and remedies available to CFC at law or in equity.

Nothing herein shall limit the right of CFC to pursue all rights and remedies available to a creditor following the occurrence of an Event of Default. Each right, power and remedy of CFC 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.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.01 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. All such communications shall be deemed to have been duly given (i) when personally delivered including, without limitation, by overnight mail or courier service, (ii) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, or (iii) in the case of notice by telecopy, upon transmission thereof, provided such transmission is promptly confirmed by either of the methods set forth in clauses (i) or (ii) above in each case given or addressed as provided for herein. The Address for Notices of each of the respective parties is as follows:

National Rural Utilities Cooperative Finance Corporation  
 2201 Cooperative Way  
 Herndon, Virginia 20171-3025  
 Attention: Senior Vice President – Member Services  
 Fax # 703-709-6776

The Borrower:

The address set forth in  
 Schedule 1 hereto

**Section 8.02 Expenses.** Borrower shall reimburse CFC for any reasonable costs and out-of-pocket expenses paid or incurred by CFC (including, without limitation, reasonable fees and expenses of outside attorneys, paralegals and consultants) for all actions CFC takes, (a) to enforce the payment of any Obligation, to effect collection of any Mortgaged Property, or in preparation for such enforcement or collection, (b) to institute, maintain, preserve, enforce and foreclose on CFC's security interest in or Lien on any of the Mortgaged Property, whether through judicial proceedings or otherwise, (c) to restructure any of the Obligations, (d) to review, approve or grant any consents or waivers hereunder, (e) to prepare, negotiate, execute, deliver, review, amend or modify this Agreement, and (f) to prepare, negotiate, execute, deliver, review, amend or modify any other agreements, documents and instruments deemed necessary or appropriate by CFC in connection with any of the foregoing.

The amount of all such expenses identified in this Section 8.02 shall be secured by the Mortgage and shall be payable upon demand, and if not paid, shall accrue interest at the Default Rate.

**Section 8.03 Late Payments.** If payment of any amount due hereunder is not received at CFC's office in Herndon, Virginia, or such other location as CFC may designate to the Borrower within five (5) Business Days after the due date thereof, the Borrower will pay to CFC, in addition to all other amounts due under the terms of the Loan Documents, any late payment charge as may be fixed by CFC from time to time pursuant to its policies of general application as in effect from time to time.

**Section 8.04. Non-Business Day 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 8.05 Filing Fees.** To the extent permitted by law, the Borrower agrees to pay all expenses of CFC (including the reasonable fees and expenses of its counsel) in connection with the filing, registration, recordation or perfection of the Mortgage and any other security instruments as may be required by CFC in connection with this Agreement, including, without limitation, all documentary stamps, recordation and transfer taxes and other costs and taxes incident to execution, filing, registration or recordation of any document or instrument in connection herewith. The Borrower agrees to save harmless and indemnify CFC 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 CFC 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 under the Loan Documents.

**Section 8.06 Waiver; Modification.** No failure on the part of CFC to exercise, and no delay in exercising, any right or power hereunder or under the other Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise by CFC of any right hereunder, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power. No modification or waiver of any provision of this Agreement, the Note or the other Loan Documents and no consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be in writing by the party granting such modification, waiver or consent, and then such modification, waiver or consent shall be effective only in the specific instance and for the purpose for which given.

**SECTION 8.07 GOVERNING LAW; SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL.**

(A) THE PERFORMANCE AND CONSTRUCTION OF THIS AGREEMENT AND THE NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF VIRGINIA.

(B) THE BORROWER HEREBY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE UNITED STATES COURTS LOCATED IN VIRGINIA AND OF ANY STATE COURT SO LOCATED FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THE BORROWER IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTIONS THAT IT MAY NOW OR HEREAFTER HAVE TO THE ESTABLISHING OF THE VENUE OF ANY SUCH PROCEEDINGS BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(C) THE BORROWER AND CFC EACH HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**SECTION 8.08 INDEMNIFICATION.** THE BORROWER HEREBY INDEMNIFIES AND AGREES TO HOLD HARMLESS, AND DEFEND CFC AND ITS MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, ATTORNEYS AND REPRESENTATIVES (EACH AN "INDEMNITEE") FOR, FROM, AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES,

COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COSTS AND EXPENSES OF LITIGATION AND REASONABLE ATTORNEYS' FEES) ARISING FROM ANY CLAIM OR DEMAND IN RESPECT OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, THE MORTGAGED PROPERTY, OR THE TRANSACTIONS DESCRIBED IN THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ARISING AT ANY TIME, WHETHER BEFORE OR AFTER PAYMENT AND PERFORMANCE OF ALL OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS IN FULL, EXCEPTING ANY SUCH MATTERS ARISING SOLELY FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CFC OR ANY INDEMNITEE. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN SECTION 8.10 HEREOF, THE OBLIGATIONS IMPOSED UPON THE BORROWER BY THIS SECTION SHALL SURVIVE THE REPAYMENT OF THE NOTE, THE TERMINATION OF THIS AGREEMENT AND THE TERMINATION OR RELEASE OF THE LIEN OF THE MORTGAGE.

**Section 8.09 Complete Agreement.** This Agreement, together with the schedules to this Agreement, the Note and the other Loan Documents, and the other agreements and matters referred to herein or by their terms referring hereto, is intended by the parties as a final expression of their agreement and is intended as a complete statement of the terms and conditions of their agreement. In the event of any conflict in the terms and provisions of this Agreement and any other Loan Documents, the terms and provisions of this Agreement shall control.

**Section 8.10 Survival; Successors and Assigns.** All covenants, agreements, representations and warranties of the Borrower which are contained in this Agreement shall survive the execution and delivery to CFC of the Loan Documents and the making of the Loan hereunder and shall continue in full force and effect until all of the obligations under the Loan Documents have been paid in full. All covenants, agreements, representations and warranties of the Borrower which are contained in this Agreement shall inure to the benefit of the successors and assigns of CFC. The Borrower shall not have the right to assign its rights or obligations under this Agreement without the prior written consent of CFC, except as provided in Section 5.02.A hereof.

**Section 8.11 Use of Terms.** The use of the singular herein shall also refer to the plural, and vice versa.

**Section 8.12 Headings.** The headings and sub-headings contained in this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

**Section 8.13 Severability.** If any term, provision or condition, or any part thereof, of this Agreement, the Note or the other Loan Documents 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 other Loan Documents shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

**Section 8.14. Prior Loan Documents.** It is understood and agreed that all of the terms, conditions and provisions of this Agreement shall supersede all of the terms, conditions and provisions of all Prior Loan Documents, *except for* (a) representations and warranties contained in any Prior Loan Document, which shall continue to apply to the loan or loans referenced in the Prior Loan Document, (b) conditions precedent to the making of any Advance under a Prior Loan

Document, and (c) any special covenants, conditions or other specific terms set forth on Schedule 1 to any Prior Loan Document, unless otherwise explicitly agreed to in writing by CFC, or superseded by explicit reference thereto in this Agreement. For purposes of the foregoing, this Section 8.14 shall be deemed to amend all Prior Loan Documents, and notwithstanding termination of this Agreement for any reason, this Section 8.14 shall nevertheless survive and shall continue to amend each Prior Loan Document for as long as the respective Prior Loan Document is in effect, but only with respect to the matters set forth in this Section 8.14.

**Section 8.15 Binding Effect.** This Agreement shall become effective when it shall have been executed by both the Borrower and CFC and thereafter shall be binding upon and inure to the benefit of the Borrower and CFC and their respective successors and assigns.

**Section 8.16 Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document.

**Section 8.17 Schedule 1.** Schedule 1 attached hereto is an integral part of this Agreement.

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

SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.

(SEAL)

By: Gene Manning

Title: President of The Board

Attest: Crede W. Huber  
Secretary

**CREDEN W. HUBER**  
CHIEF EXECUTIVE OFFICER

NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION

(SEAL)

By: \_\_\_\_\_  
Assistant Secretary-Treasurer

Attest: \_\_\_\_\_  
Assistant Secretary-Treasurer

## SCHEDULE 1

1. The Borrower shall use the proceeds of this Loan solely for any or all of the following purposes: (A) to own or to operate any of the property listed in (i) through (vi) below (whether such property now exists or is hereafter constructed by the Borrower or acquired by lease, contract, purchase or otherwise); (B) to own or to operate any interest or other participation in any of such property; (C) to own or to exercise any rights to the output or capacity of any such property; and (D) for the reasonable costs and expenses incurred by the Borrower in connection with any of such property *provided, however*, that the Borrower may also use the proceeds of this Loan to purchase LCTC's as required herein.:
  - (i) interests in all electric generation, transmission, distribution, conservation, load management, general plant and other facilities related to the Borrower's electric business;
  - (ii) interests in, and equipment or property (real or personal) used in the operation of, any mine, well, pipeline, plant, structure or other facility used for the development, production, manufacture, storage, fabrication or processing of fuel for the Borrower's electric business;
  - (iii) with CFC's prior written consent, interests in, and equipment or property (real or personal) used in the operation of, any mine, well, pipeline, plant, structure or other facility with respect to the supply of water in connection with the Borrower's electric business;
  - (iv) with CFC's prior written consent, water and waste systems, solid waste disposal facilities, natural gas distribution systems, telecommunications and other electronic communications systems, in each case located substantially within the Borrower's electric service territory;
  - (v) with CFC's prior written consent, interests in other community infrastructure located substantially within the Borrower's electric service territory and not specifically identified herein; and
  - (vi) with respect to each of the foregoing (i) through (v):
    - (a) all property, fixtures, structures and other property associated therewith;
    - (b) all additions, betterments, extensions, and improvements thereto;
    - (c) all lands, easements and rights-of-way associated therewith; and
    - (d) all licenses, contract rights and other tangible and intangible assets used or useful in connection with or related thereto.
  
2. The aggregate CFC Commitment is \$70,780,000.00. Within this aggregate amount, the Borrower may, at its discretion, execute one or more Notes, each Note representing a separate loan with CFC and containing a face amount and Maturity Date in accordance with the terms, conditions and provisions of this Agreement.

3. Draw Period shall mean the period of beginning on the date hereof and ending on the date that is five (5) years thereafter.
4. The Mortgage shall mean the Restated Mortgage and Security Agreement dated as of even date herewith between the Borrower and CFC, as it may have been supplemented, amended, consolidated, or restated from time to time.
5. The Notes executed pursuant hereto and the amortization method for such Notes are as follows:

LOAN NUMBER	AMOUNT	AMORTIZATION METHOD
AZ014-V-9033	\$70,780,000.00	As selected by Borrower in a written funds requisition at the time of Advance

6. The Payment Date months are March, June September and December.
7. The Subsidiaries of the Borrower referred to in Section 2.01.B. are:
 

<u>Name of Subsidiary</u>	<u>% of Borrower's ownership</u>
N/A	
8. The date of the Borrower's balance sheet referred to in Section 2.01.H is June 30, 2005 and 2006.
9. The Borrower's exact legal name is: Sulphur Springs Valley Electric Cooperative, Inc.
10. The Borrower's organizational type is: Corporation
11. The Borrower is organized under the laws of the state of: Arizona
12. The Borrower's organizational identification number is: 0038220-2
13. The place of business or, if more than one, the chief executive office of the Borrower referred to in Section 2.01.I is 311 East Wilcox, Sierra Vista, Arizona 85635.
14. The Governmental Authority referred to in Section 2.01.J. is: Arizona Corporation Commission.
15. The special conditions referred to in Section 4.01.I are: None
16. The special covenants referred to in Section 5.01.O are as follows: None
17. The address for notices to the Borrower referred to in Section 8.01 is 311 East Wilcox, Sierra Vista, Arizona 85635, Attention: General Manager, Fax: (520) 384-5223.



=====

RESTATED MORTGAGE

AND

SECURITY AGREEMENT

Made By And Between

SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.

Mortgagor

and

NATIONAL RURAL UTILITIES  
COOPERATIVE FINANCE CORPORATION

Mortgagee

Dated as of Dec. 6, 2007

\*\*\*

THIS INSTRUMENT GRANTS A SECURITY INTEREST  
IN A TRANSMITTING UTILITY.

THIS INSTRUMENT CONTAINS FUTURE ADVANCE PROVISIONS  
MADE BY THE MORTGAGEE TO THE MORTGAGOR  
AND FUTURE OBLIGATIONS OF THE MORTGAGOR TO THE MORTGAGEE.

\*\*\*

THIS INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS.  
THE MORTGAGOR'S ORGANIZATIONAL IDENTIFICATION NUMBER IS: 0038220-2

\*\*\*

THIS INSTRUMENT WAS DRAFTED BY JAMES J. JABLONSKI, ESQ.  
OF NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION  
2201 COOPERATIVE WAY, HERNDON, VIRGINIA 20171  
MORTGAGEE'S TELEPHONE NUMBER IS 1-800-424-2954

=====

TABLE OF CONTENTS

	Page
ARTICLE I	
Section 1.01	Definitions.....1
Section 1.02	Construction of Mortgage.....6
ARTICLE II	
SECURITY	
Section 2.01	Granting Clause.....6
ARTICLE III	
ADDITIONAL SECURED NOTES	
Section 3.01	Additional Secured Notes.....9
Section 3.02	Maximum Debt Limit.....9
ARTICLE IV	
PARTICULAR COVENANTS OF THE MORTGAGOR	
Section 4.01	Authority to Execute and Deliver Notes and Mortgage; All Action Taken; Enforceable Obligations .....9
Section 4.02	Authority to Mortgage Property; No Liens; Exception for Permitted Encumbrances; Mortgagor to Defend Title and Remove Liens.....10
Section 4.03	Additional Permitted Debt.....10
Section 4.04	Payment of Notes .....10
Section 4.05	Preservation of Corporate Existence and Franchises .....10
Section 4.06	Maintenance of Mortgaged Property .....11

TABLE OF CONTENTS, Continued

	Page
Section 4.07	Insurance; Restoration of Damaged Mortgaged Property.....11
Section 4.08	Mortgagee Right to Expend Money to Protect Mortgaged Property .....12
Section 4.09	Further Assurances to Confirm Security of Mortgage .....12
Section 4.10	Application of Proceeds from Condemnation .....12
Section 4.11	Compliance with Loan Agreement.....13
Section 4.12	Rights of Way, etc. ....13
Section 4.13	Mortgagor's Legal Status.....13
Section 4.14	Authorization to File Financing Statements .....16
Section 4.15	Other Actions Concerning Mortgaged Property.....16

ARTICLE V

REMEDIES OF THE MORTGAGEE

Section 5.01	Events of Default .....17
Section 5.02	Acceleration of Maturity; Rescission and Annulment .....18
Section 5.03	Remedies of Mortgagee .....18
Section 5.04	Application of Proceeds from Remedial Actions.....19
Section 5.05	Remedies Cumulative; No Election .....19
Section 5.06	Waiver of Appraisal Rights.....19
Section 5.07	Notice of Default .....19

TABLE OF CONTENTS, Continued

Page

ARTICLE VI

POSSESSION UNTIL DEFAULT - DEFEASANCE CLAUSE

Section 6.01	Possession Until Default.....	19
Section 6.02	Defeasance .....	20

ARTICLE VII

MISCELLANEOUS

Section 7.01	Property Deemed Real Property .....	20
Section 7.02	Mortgage to Bind and Benefit Successors and Assigns.....	20
Section 7.03	Headings .....	20
Section 7.04	Notices.....	20
Section 7.05	Severability .....	21
Section 7.06	Mortgage Deemed Security Agreement.....	21
Section 7.07	Indemnification by Mortgagor of Mortgagee.....	21
Section 7.08	Counterparts.....	21
Section 7.09	Costs and Expenses.....	21

APPENDIX A

APPENDIX B

APPENDIX C

**RESTATED MORTGAGE AND SECURITY AGREEMENT**, dated as of 11/22/2011, ("Mortgage") is made by and between SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC. (hereinafter called the "Mortgagor"), a corporation existing under the laws of the State of Arizona, and NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION (hereinafter called "CFC" or the "Mortgagee"), a cooperative association incorporated under the laws of the District of Columbia.

## **RECITALS**

**WHEREAS**, the Mortgagor and CFC are parties to the Original Mortgage;

**WHEREAS**, the Mortgagor has heretofore borrowed funds from the Mortgagee pursuant to one or more Outstanding Loan Agreements, has duly authorized, executed and delivered to CFC the Outstanding Notes, and has secured the Outstanding Notes by the Original Mortgage;

**WHEREAS**, this Mortgage, while preserving the priority of CFC's lien under the Original Mortgage, restates and consolidates the Original Mortgage and secures the payment of Outstanding Notes and Current Notes (as identified more particularly in the Instruments Recital), and further secures the payment of any Additional Notes;

**WHEREAS**, the Mortgagor has decided to borrow funds from the Mortgagee pursuant to the Current Loan Agreement;

**WHEREAS**, pursuant to the Current Loan Agreement, Mortgagor has duly authorized, executed and delivered to the Mortgagee one or more Current Notes to be secured by the mortgage of the property hereinafter described;

**WHEREAS**, it is contemplated that the Current Notes, the Outstanding Notes and the Additional Notes shall be secured by this Mortgage; and

**WHEREAS**, the Mortgagor and the Mortgagee are authorized to enter into this Mortgage.

**NOW, THEREFORE**, the parties hereto, in consideration of the mutual covenants contained herein, do agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.01. Definitions.** Capitalized terms used in this Mortgage shall have the meanings specified below. Any capitalized terms used in this Mortgage and not defined below or elsewhere herein shall have the meanings assigned to them under the Uniform Commercial Code of the jurisdiction governing construction of this Mortgage, unless the context clearly requires otherwise. The terms defined herein include the plural as well as the singular and the singular as well as the plural.

**Accounting Requirements** shall mean any system of accounts prescribed by a federal regulatory authority having jurisdiction over the Mortgagor or, in the absence thereof, the requirements of generally accepted accounting principles applicable to businesses similar to that of the Mortgagor.

**Additional Notes** shall mean any Notes issued by the Mortgagor to CFC pursuant to Article III of this Mortgage including any refunding, renewal, or substitute Notes which may from time to time be executed and delivered by the Mortgagor pursuant to the terms of Article III and all other evidences of indebtedness by the Mortgagor to CFC including but not limited to line of credit agreements, agreements to issue one or more letters of credit on behalf of the Mortgagor, and any similar agreements to extend credit or otherwise to provide credit facilities to the Mortgagor, including all amendments, supplements and extensions thereto.

**Business Day** shall mean any day that both CFC and the depository institution CFC utilizes for funds transfers are both open for business.

**CFC** is defined in the recitals to this Mortgage and shall include its successors and assigns.

**Current Loan Agreement** means that certain loan agreement by and between CFC and the Mortgagor identified as such in the Instruments Recital, together with all amendments, supplements thereto and restatements thereof.

**Current Notes** shall mean all Notes identified as such in the Instruments Recital and issued under the Current Loan Agreement.

**Debt Service Coverage Ratio ("DSC")** shall mean the ratio determined as follows: for any calendar year add (a) Operating Margins, (b) Non-Operating Margins--Interest, (c) Interest Expense, (d) Depreciation and Amortization Expense for such year, and (e) cash received in respect of generation and transmission and other capital credits, and divide the sum so obtained by the sum of all payments of Principal and Interest Expense required to be made during such calendar year; provided, however, that in the event that any Long-Term Debt has been refinanced during such year the payments of Principal and Interest Expense required to be made during such year on account of such Long-Term Debt shall be based (in lieu of actual payments required to be made on such refinanced debt) upon the larger of (i) an annualization of the payments required to be made with respect to the refinancing debt during the portion of such year such refinancing debt is outstanding or (ii) the payment of Principal and Interest Expense required to be made during the following year on account of such refinancing debt.

**Depreciation and Amortization Expense** shall mean an amount constituting the depreciation and amortization of the Mortgagor as computed pursuant to the Accounting Requirements.

**Equities and Margins** shall mean Mortgagor's equities and margins computed pursuant to the Accounting Requirements.

**Equity** shall mean the aggregate of Mortgagor's Equities and Margins as computed pursuant to the Accounting Requirements.

**Event of Default** shall have the meaning specified in Section 5.01 hereof.

**Excepted Property** shall mean the property, if any, identified on Appendix C hereto.

**Fiscal Year** shall mean the fiscal year of the Mortgagor.

**Instruments Recital** shall mean Appendix A hereto.

**Interest Expense** shall mean an amount constituting the interest expense with respect to Total Long-Term Debt of the Mortgagor as computed pursuant to the Accounting Requirements. In computing Interest Expense, there shall be added, to the extent not otherwise included, an amount equal to 33-1/3% of the excess of Restricted Rentals paid by the Mortgagor over two percent (2%) of the Mortgagor's Equities and Margins.

**Lien** shall mean any statutory or common law consensual or non-consensual mortgage, pledge, security interest, encumbrance, lien, right of set off, claim or charge of any kind, including, without limitation, any conditional sale or other title retention transaction, any lease transaction in the nature thereof and any secured transaction under the Uniform Commercial Code.

**Loan Agreement** shall mean, collectively:

- a) the Outstanding Loan Agreement;
- b) the Current Loan Agreement; and
- c) any other loan agreement executed by and between the Mortgagor and CFC in connection with the execution and delivery of any Notes secured hereby.

**Long-Term Debt** shall mean any amount included in Total Long-Term Debt computed pursuant to the Accounting Requirements.

**Long-Term Leases** shall mean leases having unexpired terms (taking into account terms of renewal at the option of the lessor, whether or not such leases have previously been renewed) of more than 12 months.

**Maximum Debt Limit** shall mean the amount more particularly described in Appendix A hereto.

**Mortgaged Property** shall have the meaning specified in Section 2.01 hereof.

**Mortgagee** shall mean CFC, its successor and assigns.

**Non-Operating Margins--Interest** shall mean the amount of non-operating margins--interest of Mortgagor as computed pursuant to the Accounting Requirements.

**Note or Notes** shall mean one or more of the Current Notes, and any other Outstanding or Additional Notes secured under this Mortgage.

**Operating Margins** shall mean the net amount of operating revenue and patronage capital less the total cost of electric service of the Mortgagor as computed pursuant to the Accounting Requirements.

**Original Mortgage** shall mean that certain Restated Mortgage and Security Agreement dated as of March 19, 2004, entered into between the Mortgagor and CFC; and as supplemented, amended or restated, identified in the Instruments Recital.

**Outstanding Loan Agreements** shall mean those loan agreements between Mortgagor and CFC identified as such in the Instruments Recital.

**Outstanding Notes** shall mean all Notes identified as such in the Instruments Recital.

**Permitted Encumbrances** shall mean:

- (i) any Liens for taxes, assessments or governmental charges for the current year and taxes, assessments or governmental charges due but not yet delinquent;
- (ii) Liens for workmen's compensation awards and similar obligations not then delinquent;
- (iii) mechanics', laborers', materialmen's and similar Liens not then delinquent, and any such Liens, whether or not delinquent, whose validity is at the time being contested in good faith;
- (iv) Liens and charges incidental to construction or current operation which have not been filed or asserted or the payment of which has been adequately secured or which, in the opinion of counsel to the Mortgagor are insignificant in amount;
- (v) Liens securing obligations not assumed by the Mortgagor and on account of which it does not pay and does not expect to pay interest, existing upon real estate (or rights in or relating to real estate) over or in respect of which the Mortgagor has a right-of-way or other easement for substation, transmission, distribution or other right-of-way purposes;
- (vi) any right which the United States of America or any state or municipality or governmental body or agency may have by virtue of any franchise, license, contract or statute to purchase, or designate a purchaser of, or order the sale of, any property of the Mortgagor upon payment of reasonable compensation therefor, or upon reasonable compensation or conditions to terminate any franchise, license or other rights before the expiration date hereof or to regulate the property and business of the Mortgagor;
- (vii) attachment of judgment Liens covered by insurance (to the extent of the insurance coverage), or upon appeal and covered by bond;

(viii) deposits or pledges to secure payment of workmen's compensation, unemployment insurance, old age pensions or other social security;

(ix) deposits or pledges to secure performance of bids, tenders, contracts (other than contracts for the payment of borrowed money), leases, public or statutory obligations;

(x) surety or appeal bonds, and other deposits or pledges for purposes of like general nature in the ordinary course of business;

(xi) easements or reservations in respect to any property for the purpose of transmission and distribution lines and rights-of-way and similar purposes, zoning ordinances, regulations, reservations, restrictions, covenants, party wall agreements, conditions of record and other encumbrances (other than to secure the payment of money), none of which in the opinion of counsel to the Mortgagor is such as to interfere with the proper operation of the property affected thereby;

(xii) the burdens of any law or governmental organization or permit requiring the Mortgagor to maintain certain facilities or perform certain acts as a condition of its occupancy of or interference with any public land or any river, stream or other waters or relating to environmental matters;

(xiii) any Lien or encumbrance for the discharge of which moneys have been deposited in trust with a proper depository to apply such moneys to the discharge of such Lien or encumbrances;

(xiv) any Lien reserved as security for rent or compliance with other provisions of the lease in case of any leasehold estate made, or existing on property acquired in the ordinary course of business or in connection with Restricted Rentals permitted by Section 4.03; and

(xv) Liens for purchase money indebtedness permitted by Section 4.03.

**Principal** shall mean the amount of principal billed on account of Total Long-Term Debt of Mortgagor as computed pursuant to the Accounting Requirements.

**Restricted Rentals** shall mean all rentals required to be paid under finance leases and charged to income, exclusive of any amounts paid under any such lease (whether or not designated therein as rental or additional rental) for maintenance or repairs, insurance, taxes, assessments, water rates or similar charges. For the purpose of this definition, the term "finance lease" shall mean any lease having a rental term (including the term for which such lease may be renewed or extended at the option of the lessee) in excess of 3 years and covering property having an initial cost in excess of \$250,000 other than automobiles, trucks, trailers, other vehicles (including without limitation aircraft and ships), office, garage and warehouse space and office equipment (including without limitation computers).

**Security Interest** shall mean any assignment, transfer, mortgage, hypothecation or pledge.

**Subordinated Indebtedness** shall mean indebtedness of the Mortgagor, payment of which shall be subordinated to the prior payment of the Notes by subordination agreement in form and substance satisfactory to the Mortgagee, which approval will not be unreasonably withheld.

**Total Assets** shall mean an amount constituting total assets of the Mortgagor computed pursuant to the Accounting Requirements.

**Total Long-Term Debt** shall mean an amount constituting the long-term debt of the Mortgagor as computed pursuant to the Accounting Requirements.

**Total Utility Plant** shall mean the amount constituting the total utility plant of the Mortgagor computed in accordance with the Accounting Requirements.

**Uniform Commercial Code** shall mean the Uniform Commercial Code of the jurisdiction governing construction of this Mortgage.

**Section 1.02. Construction of Mortgage.** Accounting terms used in this Mortgage and not referred to above shall have the meanings assigned to them under generally accepted accounting principles. The singular shall include the plural, and vice versa, as the context requires.

## ARTICLE II

### SECURITY

**Section 2.01. Granting Clause.** In order to secure the payment of the principal of and interest on and any other amount due under the Notes, according to their tenor and effect, and further to secure the due performance of the covenants, agreements and provisions contained in this Mortgage and the Loan Agreement and to declare the terms and conditions upon which the Notes are to be secured, the Mortgagor, in consideration of the premises, has executed and delivered this Mortgage, and has granted, bargained, sold, conveyed, warranted, assigned, transferred, mortgaged, pledged and set over, and by these presents does hereby grant, bargain, sell, convey, warrant, assign, transfer, mortgage, pledge and set over unto the Mortgagee, and the Mortgagor does hereby grant to the Mortgagee, for the purposes herein expressed, a security interest in the following properties, assets and rights of the Mortgagor, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof (hereinafter sometimes called the "Mortgaged Property"):

|

All right, title and interest of the Mortgagor in and to the electric generating plants and facilities and electric transmission and distribution lines and facilities now owned by the Mortgagor and located in the counties listed in Appendix B hereto, or hereafter constructed or acquired by the Mortgagor, wherever located, and in and to all extensions and improvements thereof and additions thereto, including any and all other property of every kind, nature and description, used, useful or acquired for use by the Mortgagor in

connection therewith, and including, without limitation, the property described in the property schedule listed on or attached to Appendix B hereto;

II

All right, title and interest of the Mortgagor in, to and under any and all grants, privileges, rights of way and easements now owned, held, leased, enjoyed or exercised, or which may hereafter be owned, held, leased, acquired, enjoyed or exercised, by the Mortgagor for the purposes of, or in connection with, the construction or operation by or on behalf of the Mortgagor of electric transmission or distribution lines or systems, whether underground or overhead or otherwise, or of any electric generating plant, wherever located;

III

All right, title and interest of the Mortgagor in, to and under any and all licenses, franchises, ordinances, privileges and permits heretofore granted, issued or executed, or which may hereafter be granted, issued or executed, to it or to its assignors by the United States of America, or by any state, or by any county, township, municipality, village or other political subdivision thereof, or by any agency, board, commission or department of any of the foregoing, authorizing the construction, acquisition or operation of electric transmission or distribution lines or systems, or any electric generating plant or plants, insofar as the same may by law be assigned, granted, bargained, sold, conveyed, transferred, mortgaged or pledged;

IV

All right, title and interest of the Mortgagor in, to and under all personal property and fixtures of every kind and nature including without limitation all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts, chattel paper, deposit accounts, letter-of-credit rights, investment property (including certificated and uncertificated securities, security entitlements and securities accounts), software, general intangibles, supporting obligations, any other contract rights or rights to the payment of money, insurance claims and proceeds (as such terms are defined in the applicable Uniform Commercial Code; provided, however, that the term "instrument" shall be such term as defined in Article 9 of the applicable Uniform Commercial Code rather than Article 3);

V

All right, title and interest of the Mortgagor in, to and under any and all agreements, leases or contracts heretofore or hereafter executed by and between the Mortgagor and any person, firm or corporation relating to the Mortgaged Property (including contracts for the lease, occupancy or sale of the Mortgaged Property, or any portion thereof);

## VI

All right, title and interest of the Mortgagor in, to and under any and all books, records and correspondence relating to the Mortgaged Property, including, but not limited to: all records, ledgers, leases and computer and automatic machinery software and programs, including without limitation, programs, databases, disc or tape files and automatic machinery print outs, runs and other computer prepared information indicating, summarizing evidencing or otherwise necessary or helpful in the collection of or realization on the Mortgaged Property;

## VII

Also, all right, title and interest of the Mortgagor in and to all other property, real or personal, tangible or intangible, of every kind, nature and description, and wheresoever situated, now owned or hereafter acquired by the Mortgagor, it being the intention hereof that all such property now owned but not specifically described herein or acquired or held by the Mortgagor after the date hereof shall be as fully embraced within and subjected to the lien hereof as if the same were now owned by the Mortgagor and were specifically described herein to the extent only, however, that the subjection of such property to the lien hereof shall not be contrary to law;

Together with all rents, income, revenues, profits, cash, proceeds and benefits at any time derived, received or had from any and all of the above-described property or business operations of the Mortgagor, to the fullest extent permitted by law.

Provided, however, that no automobiles, trucks, trailers, tractors or other vehicles (including, without limitation, aircraft or ships, if any) which are titled and/or registered in any state of the United States and owned or used by the Mortgagor shall be included in the Mortgaged Property.

**TO HAVE AND TO HOLD** all and singular the Mortgaged Property unto the Mortgagee and its assigns forever, to secure equally and ratably the payment of the principal of and interest on and any other amount due under the Notes, according to their tenor and effect, without preference, priority or distinction as to interest or principal (except as otherwise specifically provided herein) or as to lien or otherwise of any Note over any other Note by reason of the priority in time of the execution, delivery or maturity thereof or of the assignment or negotiation thereof, or otherwise, and to secure the due performance of the covenants, agreements and provisions herein and in the Loan Agreement contained, and for the uses and purposes and upon the terms, conditions, provisos and agreements hereinafter expressed and declared.

## ARTICLE III

### ADDITIONAL SECURED NOTES

**Section 3.01. Additional Secured Notes.** Without the prior consent of the Mortgagee, the Mortgagor may issue Additional Notes to the United States of America, acting by and through the administrator of the Rural Utilities Service (including its

successors and assigns) which Notes will thereupon be secured equally and ratably with the Notes if the following requirements are satisfied:

(A) As evidenced by a certificate of an independent certified public accountant delivered to the Mortgagee, the Mortgagor shall have achieved (1) for each of the two calendar years preceding, or any two consecutive 12 month periods ending within 180 days preceding the issuance of such Notes, a DSC of not less than 1.35 and (2) Equity of not less than twenty percent (20%) of Total Assets after taking into consideration such new indebtedness and the assets created by such indebtedness; and

(B) No Event of Default or any event which with the giving of notice or lapse of time or both would become an Event of Default has occurred and is continuing hereunder. The Mortgagor shall also have the right without the consent of the Mortgagee, so long as an Event of Default or any event which with the giving of notice or lapse of time or both would become an Event of Default, has not occurred and is continuing hereunder, to issue Additional Notes for the purpose of refunding or refinancing any Notes so long as the total amount of outstanding indebtedness evidenced by any such Additional Note is not greater than 105 percent of the Note being refunded or refinanced.

Notwithstanding the foregoing, CFC may offer additional credit facilities to be secured hereunder, and the Mortgagor may issue Additional Notes to CFC in connection therewith, which Notes will thereupon be secured equally and ratably with the Notes, without the Mortgagor meeting the above requirements.

**Section 3.02. Maximum Debt Limit.** The Notes at any one time secured by this Mortgage shall not in the aggregate principal amount exceed the Maximum Debt Limit.

## ARTICLE IV

### PARTICULAR COVENANTS OF THE MORTGAGOR

The Mortgagor covenants with the Mortgagee as follows:

**Section 4.01. Authority to Execute and Deliver Notes and Mortgage; All Action Taken; Enforceable Obligations.** The Mortgagor is authorized under its articles of incorporation and bylaws and all applicable laws and by corporate action to execute and deliver the Notes and this Mortgage; and the Notes and this Mortgage are, and any Additional Notes when executed and delivered will be, the valid and enforceable obligations of the Mortgagor in accordance with their respective terms.

**Section 4.02. Authority to Mortgage Property; No Liens; Exception for Permitted Encumbrances; Mortgagor to Defend Title and Remove Liens.** The Mortgagor warrants that it is the owner of, or has other rights in the Mortgaged Property, that it has good, right and lawful authority to mortgage the Mortgaged Property for the purposes herein expressed, and that the Mortgaged Property is free and clear of any Lien affecting the title thereto, except the lien of this Mortgage and Permitted Encumbrances. Except as to Permitted Encumbrances, the Mortgagor will, so long as any of the Notes

shall be outstanding, maintain and preserve the lien of this Mortgage superior to all other Liens affecting the Mortgaged Property and will forever warrant and defend the title to the Mortgaged Property against any and all claims and demands. Subject to the provisions of Section 4.03, or unless approved by the Mortgagee, the Mortgagor will purchase all materials, equipment and replacements to be incorporated in or used in connection with the Mortgaged Property outright and not subject to any conditional sales agreement, chattel mortgage, bailment, lease or other agreement reserving to the seller any right, title or Lien. Except as to Permitted Encumbrances, the Mortgagor will promptly pay or discharge any and all obligations for or on account of which any such Lien or charge might exist or could be created and any and all lawful taxes, rates, levies, assessments, Liens, claims or other charges imposed upon or accruing upon any of the Mortgagor's property (whether taxed to the Mortgagor or to the Mortgagee), or the franchises, earnings or business of the Mortgagor, as and when the same shall become due and payable; provided, however, that this provision shall not be deemed to require the payment or discharge of any tax, rate, levy, assessment or other governmental charge while the Mortgagor is contesting the validity thereof by appropriate proceedings in good faith and so long as it shall have set aside on its books adequate reserves with respect thereto.

**Section 4.03. Additional Permitted Debt.** Except as permitted by Section 3.01 hereunder and the Loan Agreement, the Mortgagor shall not incur, assume, guarantee or otherwise become liable in respect of any debt (including Subordinated Indebtedness) other than the following:

- (1) Purchase money indebtedness in non-electric utility property, in an amount not exceeding ten percent (10%) of Total Utility Plant or fifty percent (50%) of Equity, whichever is greater;
- (2) Restricted Rentals in an amount not to exceed five percent (5%) of Equity during any 12 consecutive calendar month period;
- (3) Unsecured current debt and lease obligations incurred in the ordinary course of business including accounts payable for goods and services; and
- (4) Unsecured indebtedness.

**Section 4.04. Payment of Notes.** The Mortgagor will duly and punctually pay the principal of (premium, if any) and interest on the Notes at the dates and places and in the manner provided therein, and all other sums becoming due hereunder.

**Section 4.05. Preservation of Corporate Existence and Franchises.** The Mortgagor will, so long as any of the Notes are outstanding, take or cause to be taken all such action as from time to time may be necessary to preserve its corporate existence and to preserve and renew all franchises, rights of way, easements, permits, and licenses now or hereafter to be granted or upon it conferred, and will comply with all valid laws, ordinances, regulations and requirements applicable to it or its property.

**Section 4.06. Maintenance of Mortgaged Property.** So long as the Mortgagor holds title to the Mortgaged Property, the Mortgagor will at all times maintain and preserve the Mortgaged Property in good repair, working order and condition, ordinary wear and

tear and acts of God excepted, and in compliance with all applicable laws, regulations and orders, and will from time to time make all necessary and proper repairs, renewals, and replacements, and useful and proper alterations, additions, betterments and improvements, and will, subject to contingencies beyond its reasonable control, at all times keep its plant and properties in continuous operating condition and use all reasonable diligence to furnish the consumers served by it through the Mortgaged Property, or any part thereof, with an adequate supply of electric energy and other services furnished by the Mortgagor. If any substantial part of the Mortgaged Property is leased by the Mortgagor to any other party, the lease agreement between the Mortgagor and the lessee shall obligate the lessee to comply with the provisions of this Section in respect of the leased facilities and permit the Mortgagor to operate the leased facilities in the event of any failure by the lessee to so comply.

**Section 4.07. Insurance; Restoration of Damaged Mortgaged Property.** The Mortgagor will take out, as the respective risks are incurred, and maintain the classes and amounts of insurance in conformance with generally accepted utility industry standards for such classes and amounts of coverages of utilities of the size and character of the Mortgagor.

The foregoing insurance coverage shall be obtained by means of bond and policy forms approved by regulatory authorities, and, with respect to insurance upon any part of the Mortgaged Property, shall provide (unless waived by the Mortgagee) that the insurance shall be payable to the Mortgagee as its interest may appear by means of the standard mortgagee clause without contribution. Each policy or other contract for such insurance shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least thirty (30) days after written notice to the Mortgagee of cancellation.

In the event of damage to or the destruction or loss of any portion of the Mortgaged Property, unless the Mortgagee shall otherwise agree, the Mortgagor shall promptly replace or restore such damaged, destroyed or lost portion so that the Mortgaged Property shall be in substantially the same condition as it was in prior to such damage, destruction or loss, and shall apply the proceeds of the insurance for that purpose.

Sums recovered under any policy or fidelity bond by the Mortgagor for a loss of funds advanced under the Notes or recovered by the Mortgagee for any loss under such policy or bond shall, unless otherwise directed by the Mortgagee, be applied to the prepayment of the Notes pro rata according to the unpaid principal amounts thereof (such prepayments to be applied to such notes and installments thereof as may be designated by the Mortgagee at the time of any such prepayment), or be used to construct or acquire facilities which will become part of the Mortgaged Property. At the request of the Mortgagee, the Mortgagor shall exercise such rights and remedies which it may have under such policy or fidelity bond and which may be designated by the Mortgagee, and the Mortgagor hereby irrevocably appoints the Mortgagee as its agent to exercise such rights and remedies under such policy or bond as the Mortgagee may choose, and the Mortgagor shall pay all costs and expenses incurred by the Mortgagee in connection with such exercise.

**Section 4.08. Mortgagee Right to Expend Money to Protect Mortgaged Property.** The Mortgagor agrees that the Mortgagee from time to time hereunder may in its sole discretion, but shall not be obligated to, after having given five (5) Business Days prior written notice to Mortgagor, advance funds on behalf of Mortgagor, in order to insure Mortgagor's compliance with any covenant, warranty, representation or agreement of Mortgagor made in or pursuant to this Mortgage or any Loan Agreement, to preserve or protect any right or interest of the Mortgagee in the Mortgaged Property or under or pursuant to this Mortgage or any Loan Agreement, including without limitation, the payment of any insurance premiums or taxes and the satisfaction or discharge of any judgment or any Lien upon the Mortgaged Property or other property or assets of Mortgagor; provided, however, that the making of any such advance by the Mortgagee shall not constitute a waiver by the Mortgagee of any Event of Default with respect to which such advance is made nor relieve the Mortgagor of any such Event of Default. Notwithstanding the foregoing, if, in the sole discretion of Mortgagee, a situation arises which requires immediate action by Mortgagee to preserve and protect any of the Mortgaged Property given to secure the obligations secured by this Mortgage, Mortgagee shall be free to take such action as it reasonably deems appropriate to preserve and protect such Mortgaged Property without delivery of prior written notice to Mortgagor, or if such notice has been delivered, without waiting for the expiration of the aforementioned grace period. The Mortgagor shall pay to the Mortgagee upon demand all such advances made by the Mortgagee with interest thereon at a rate equal to the Mortgagee's rate at such time for short-term loans but in no event shall such rate be in excess of the maximum rate permitted by applicable law. All such advances shall be included in the obligations and secured by this Mortgage.

**Section 4.09. Further Assurances to Confirm Security of Mortgage.** Upon the written request of the Mortgagee, the Mortgagor shall promptly make, execute, acknowledge and deliver or cause to be made, executed, acknowledged and delivered all such further and supplemental indentures of mortgage, deeds of trust, mortgages, financing statements and amendments thereto (including continuation statements), security agreements, pledge agreements, stock powers or other such instruments of transfer or assignment duly executed in blank, stock certificates or other securities representing any of the Mortgaged Property, instruments (including any promissory notes held or acquired by the Mortgagor, duly endorsed and assigned to the Mortgagee) and conveyances as may reasonably be requested by the Mortgagee, and take or cause to be taken all such further action as may reasonably be requested by the Mortgagee to insure the attachment, perfection and first priority of, and the ability of the Mortgagee to enforce, the Mortgagee's lien on and security interest in any or all of the Mortgaged Property. The Mortgagor will cause this Mortgage and any and all supplemental indentures of mortgage, mortgages and deeds of trust and every security agreement, financing statement, amendment thereto (including continuation statements) and every additional instrument which shall be executed pursuant to the foregoing provisions forthwith upon execution to be recorded and filed and re-recorded and re-filed as conveyances and mortgages and deeds of trust of and security interests in real and personal property in such manner and in such places as may be required by law or reasonably requested by the Mortgagee in order to insure the attachment, perfection and first priority of, and the ability of the Mortgagee to enforce, the Mortgagee's lien on and security interest in any or all of the Mortgaged Property.

**Section 4.10. Application of Proceeds from Condemnation.** In the event that the Mortgaged Property or any part thereof shall be taken under the power of eminent domain, all proceeds and avails therefrom may be used to finance construction of facilities secured or to be secured by this Mortgage. Any proceeds not so used shall forthwith be applied by the Mortgagor: first, to the ratable payment of any indebtedness secured by this Mortgage other than principal of or interest on the Notes; second, to the ratable payment of interest which shall have accrued on the Notes and be unpaid; third, to the ratable payment of or on account of the unpaid principal of the Notes, to such installments thereof as may be designated by the Mortgagee at the time of any such payment; and fourth, the balance shall be paid to Mortgagor or whoever shall be entitled thereto.

**Section 4.11. Compliance with Loan Agreement.** The Mortgagor will observe and perform all of the covenants, agreements, terms and conditions contained in any Loan Agreement entered into in connection with the issuance of any of the Notes, as from time to time amended.

**Section 4.12. Rights of Way, etc.** The Mortgagor will use its best efforts to obtain all such rights of way, easements from landowners and releases from lien holders as shall be necessary or advisable in the conduct of its business, and, if requested by the Mortgagee, deliver to the Mortgagee evidence satisfactory to it that it has obtained such rights of way, easements or releases.

**Section 4.13. Mortgagor's Legal Status.** (a) The Mortgagor represents, warrants, covenants and agrees that: (i) the Mortgagor's exact legal name is that indicated on the signature page hereof, (ii) the Mortgagor is an organization of the type and organized in the jurisdiction set forth on the first page hereof, (iii) the cover page hereof accurately sets forth the Mortgagor's organizational identification number or accurately states that the Mortgagor has none and (iv) Section 7.04 hereof accurately sets forth the Mortgagor's place of business or, if more than one, its chief executive office as well as the Mortgagor's mailing address if different.

(b) (i) The Mortgagor will not change its name, its place of business or, if more than one, chief executive office, or its mailing address or organizational identification number if it has one, without providing prior written notice to the Mortgagee at least thirty (30) days prior to the effective date of any change, (ii) if the Mortgagor does not have an organizational identification number and later obtains one, the Mortgagor will promptly notify the Mortgagee of such organizational identification number and (iii) the Mortgagor will not change its type of organization, jurisdiction of organization or other legal structure without the prior written consent of the Mortgagee.

**Section 4.14. Authorization to File Financing Statements.** The Mortgagor hereby irrevocably authorizes the Mortgagee at any time and from time to time to file in any Uniform Commercial Code jurisdiction any initial financing statements and amendments thereto that (a) indicate the Mortgaged Property (i) as all assets of the Mortgagor or words of similar effect, regardless of whether any particular asset comprised in the Mortgaged Property falls within the scope of Article 9 of the applicable Uniform Commercial Code, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by part 5 of Article 9 of the applicable Uniform Commercial Code for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether the Mortgagor is an organization, the type of

organization and any organizational identification number issued to the Mortgagor and (ii) in the case of a financing statement filed as a fixture filing, a sufficient description of real property to which the Mortgaged Property relates. The Mortgagor agrees to furnish any such information to the Mortgagee promptly upon request. The Mortgagor also ratifies its authorization for the Mortgagee to have filed in any Uniform Commercial Code jurisdiction any like initial financing statements or amendments thereto if filed prior to the date hereof.

**Section 4.15. Other Actions Concerning Mortgaged Property.** The Mortgagor will take any other action reasonably requested by the Mortgagee to insure the attachment, perfection and first priority of, and the ability of the Mortgagee to enforce, the Mortgagee's lien on and security interest in any and all of the Mortgaged Property including, without limitation (a) complying with any provision of any statute, regulation or treaty of the United States as to any Mortgaged Property if compliance with such provision is a condition to attachment, perfection or priority of, or ability of the Mortgagee to enforce, the Mortgagee's security interest in such Mortgaged Property, (b) obtaining governmental and other third party consents and approvals, including without limitation any consent of any licensor, lessor or other person obligated on Mortgaged Property, (c) obtaining waivers from mortgagees and landlords in form and substance satisfactory to the Mortgagee and (d) taking all actions required by any earlier versions of the Uniform Commercial Code or by other law, as applicable in any relevant Uniform Commercial Code jurisdiction, or by other law as applicable in any foreign jurisdiction.

## ARTICLE V

### REMEDIES OF THE MORTGAGEE

**Section 5.01. Events of Default:** Each of the following shall be an "Event of Default":

(a) Payments. Failure of Mortgagor to make any payment of any installment of or on account of interest on or principal of (or premium, if any associated with) any Note or Notes for more than five (5) Business Days after the same shall be required to be made, whether by acceleration or otherwise;

(b) Other Covenants. Failure of Mortgagor to observe or perform any covenant, condition or agreement on the part of the Mortgagor, in any of the Notes, the Loan Agreement or in this Mortgage, and such default shall continue for a period of thirty (30) days after written notice specifying such default shall have been given to the Mortgagee by the Mortgagee;

(c) Bankruptcy. The Mortgagor shall file a petition in bankruptcy or be adjudicated a bankrupt or insolvent, or shall make an assignment for the benefit of its creditors, or shall consent to the appointment of a receiver of itself or of its property, or shall institute proceedings for its reorganization, or proceedings instituted by others for its reorganization shall not be dismissed within sixty (60) days after the institution thereof;

(d) Dissolution or Liquidation. Other than as provided in subsection (c) above, the dissolution or liquidation of the Mortgagor, or failure by the Mortgagor promptly to forestall or remove any execution, garnishment or attachment of such

consequence as will impair its ability to continue its business or fulfill its obligations and such execution, garnishment or attachment shall not be vacated within sixty (60) days;

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

(f) Final Judgment. A final judgment in excess of \$100,000 shall be entered against the Mortgagor and shall remain unsatisfied or without a stay in respect thereof for a period of sixty (60) days;

(g) Representations and Warranties. Any representation or warranty made by the Mortgagor herein, in the Loan Agreement or in any certificate or financial statement delivered hereunder or thereunder shall prove to be false or misleading in any material respect; or

(h) Other Obligations. Default by the Mortgagor 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.

#### **Section 5.02. Acceleration of Maturity; Rescission and Annulment.**

(a) Defaults. If an Event of Default described in Section 5.01 shall have occurred and be continuing, the Mortgagee may declare the principal of, and any other amounts due on account of, the Notes secured hereunder to be due and payable immediately by a notice in writing to the Mortgagor and upon such declaration, all unpaid principal (premium, if any) and accrued interest so declared shall become due and payable immediately, anything contained herein or in any Note or Notes to the contrary notwithstanding.

(b) Rescission and Annulment. If at any time after the unpaid principal of (premium, if any) and accrued interest on any of the Notes shall have been so declared to be due and payable, all payments in respect of principal and interest which shall have become due and payable by the terms of such Note or Notes (other than amounts due as a result of the acceleration of the Notes) shall be paid to the Mortgagee, and all other defaults hereunder and under the Notes shall have been made good and secured to the satisfaction of the Mortgagee, then and in every such case, the Mortgagee may, by written notice to the Mortgagor, annul such declaration and waive such default and the consequences thereof, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

**Section 5.03. Remedies of Mortgagee.** If one or more of the Events of Default shall occur and be continuing, the Mortgagee personally or by attorney, in its discretion, may, to the fullest extent permitted by law:

(a) Possession; Collection. Take immediate possession of the Mortgaged Property, collect and receive all credits, outstanding accounts and bills

receivable of the Mortgagor and all rents, income, revenues and profits pertaining to or arising from the Mortgaged Property, or any part thereof, whether then past due or accruing thereafter, and issue binding receipts therefor; and manage, control and operate the Mortgaged Property as fully as the Mortgagor might do if in possession thereof, including, without limitation, the making of all repairs or replacements deemed necessary or advisable;

(b) Enforcement; Receiver. Proceed to protect and enforce the rights of the Mortgagee by suits or actions in equity or at law in any court or courts of competent jurisdiction, whether for specific performance of any covenant or any agreement contained herein or in aid of the execution of any power herein granted or for the foreclosure hereof or hereunder or for the sale of the Mortgaged Property, or any part thereof, or to collect the debt hereby secured or for the enforcement of such other or additional appropriate legal or equitable remedies as may be deemed necessary or advisable to protect and enforce the rights and remedies herein granted or conferred, and in the event of the institution of any such action or suit, the Mortgagee shall have the right to have appointed a receiver of the Mortgaged Property and of all rents, income, revenues and profits pertaining thereto or arising therefrom, whether then past due or accruing after the appointment of such receiver, derived, received or had from the time of the commencement of such suit or action, and such receiver shall have all the usual powers and duties of receivers in like and similar cases, to the fullest extent permitted by law, and if application shall be made for the appointment of a receiver the Mortgagor hereby expressly consents that the court to which such application shall be made may make said appointment; and

(c) Auction. Sell or cause to be sold all and singular the Mortgaged Property or any part thereof, and all right, title, interest, claim and demand of the Mortgagor therein or thereto, at public auction at such place in any county in which the property to be sold, or any part thereof, is located, at such time and upon such terms as may be specified in a notice of sale, which notice shall comply with all applicable law. Subject to all applicable provisions of law, any sale to be made under this subparagraph (c) of this Section 5.03 may be adjourned from time to time by announcement at the time and place appointed for such sale, and without further notice or publication the sale may be had at the time and place to which the same shall be adjourned.

**Section 5.04. Application of Proceeds from Remedial Actions.** Any proceeds or funds arising from the exercise of any rights or the enforcement of any remedies herein provided after the payment or provision for the payment of any and all costs and expenses in connection with the exercise of such rights or the enforcement of such remedies shall be applied first, to the ratable payment of indebtedness hereby secured other than the principal of or interest on the Notes; second, to the ratable payment of interest which shall have accrued on the Notes and which shall be unpaid; third, to the ratable payment of or on account of the unpaid principal of the Notes; and the balance, if any, shall be paid to the Mortgagor or whosoever shall be lawfully entitled thereto.

**Section 5.05. Remedies Cumulative; No Election.** Every right or remedy herein conferred upon or reserved to the Mortgagee shall be cumulative and shall be in addition to every other right and remedy given hereunder or now or hereafter existing at

law, or in equity, or by statute. The pursuit of any right or remedy shall not be construed as an election.

**Section 5.06. Waiver of Appraisal Rights.** The Mortgagor, for itself and all who may claim through or under it, covenants that it will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption laws now or hereafter in force in any locality where any of the Mortgaged Property may be situated, and the Mortgagor, for itself and all who may claim through or under it, hereby waives the benefit of all such laws unless such waiver shall be forbidden by law.

**Section 5.07. Notice of Default.** The Mortgagor covenants that it will give immediate written notice to the Mortgagee of the occurrence of an Event of Default.

## ARTICLE VI

### POSSESSION UNTIL DEFAULT-DEFEASANCE CLAUSE

**Section 6.01. Possession Until Default.** Until some one or more of the Events of Default shall have happened, the Mortgagor shall be suffered and permitted to retain actual possession of the Mortgaged Property, and to manage, operate and use the same and any part thereof, with the rights and franchises appertaining thereto, and to collect, receive, take, use and enjoy the rents, revenues, issues, earnings, income, products and profits thereof or therefrom, subject to the provisions of this Mortgage.

**Section 6.02. Defeasance.** If the Mortgagor shall pay or cause to be paid the whole amount of the principal of (premium, if any) and interest on the Notes at the times and in the manner therein provided, and shall also pay or cause to be paid all other sums payable by the Mortgagor hereunder and under the Loan Agreement and shall keep and perform, all covenants herein required to be kept and performed by it, then and in that case, all property, rights and interest hereby conveyed or assigned or pledged shall revert to the Mortgagor and the estate, right, title and interest of the Mortgagee shall thereupon cease, determine and become void and the Mortgagee, in such case, on written demand of the Mortgagor but at the Mortgagor's cost and expense, shall enter satisfaction of the Mortgage upon the record. In any event, the Mortgagee, upon payment in full by the Mortgagor of all principal of (premium, if any) and interest on the Notes and the payment and discharge by the Mortgagor of all charges due hereunder or under the Loan Agreement, shall execute and deliver to the Mortgagor such instrument of satisfaction, discharge or release as shall be required by law in the circumstances.

## ARTICLE VII

### MISCELLANEOUS

**Section 7.01. Property Deemed Real Property.** It is hereby declared to be the intention of the Mortgagor that any electric generating plant or plants and facilities and all electric transmission and distribution lines or other electric or non-electric systems and facilities embraced in the Mortgaged Property, including, without limitation, all rights of way and easements granted or given to the Mortgagor or obtained by it to use real property in connection with the construction, operation or maintenance of such plant, lines, facilities or

systems, and all other property physically attached to any of the foregoing, shall be deemed to be real property.

**Section 7.02. Mortgage to Bind and Benefit Successors and Assigns.** All of the covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Mortgagor shall bind its successors and assigns, whether so specified or not, and all titles, rights and remedies hereby granted to or conferred upon the Mortgagee shall pass to and inure to the benefit of the successors and assigns of the Mortgagee. The Mortgagor hereby agrees to execute such consents, acknowledgments and other instruments as may be reasonably requested by the Mortgagee in connection with the assignment, transfer, mortgage, hypothecation or pledge of the rights or interests of the Mortgagee hereunder or under the Notes or in and to any of the Mortgaged Property.

**Section 7.03. Headings.** The descriptive headings of the various articles of this Mortgage were formulated and inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

**Section 7.04. Notices.** All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Mortgage shall be given or made in writing (including, without limitation, by telecopy) and delivered or telecopied to the intended recipient at the "Address for Notices" specified, 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 Mortgage, all such communications shall be deemed to have been duly given when personally delivered or, in the case of a telecopied or 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:

As to the Mortgagor:

SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.  
311 East Wilcox  
Sierra Vista, Arizona 85635  
Attention: General Manager  
Fax: (520) 384-5223

As to the Mortgagee:

NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION  
2201 Cooperative Way  
Herndon, Virginia 20171-3025  
Attention: Senior Vice President - Member Services  
Fax: (703) 709-6776

**Section 7.05. Severability.** The invalidity of any one or more phrases, clauses, sentences, paragraphs or provisions of this Mortgage shall not affect the remaining portions hereof.

**Section 7.06 Mortgage Deemed Security Agreement.** To the extent that any of the property described or referred to in this Mortgage is governed by the provisions of the Uniform Commercial Code, this Mortgage is hereby deemed a "security agreement", a "financing statement" and a "fixture filing" under the Uniform Commercial Code. The Mortgagor herein is the "debtor" and the Mortgagee herein is the "secured party." The mailing addresses of the Mortgagor as debtor and of the Mortgagee as secured party are as set forth in Section 7.04 hereof. The Mortgagor is an organization of the type and organized in the jurisdiction set forth on the first page hereof. The cover page hereof accurately sets forth the Mortgagor's organizational identification number or accurately states that the Mortgagor has none.

**Section 7.07. Indemnification by Mortgagor of Mortgagee.** The Mortgagor agrees to indemnify and save harmless the Mortgagee against any liability or damages which the Mortgagee may incur or sustain in the exercise and performance of its rightful powers and duties hereunder. The obligation of Mortgagor to reimburse and indemnify the Mortgagee hereunder shall be secured by this Mortgage in the same manner as the Notes and all such reimbursements for expense or damage shall be paid to the Mortgagee with interest at the rate specified in Section 4.08 hereof.

**Section 7.08. Counterparts.** This Mortgage may be simultaneously executed in any number of counterparts, and all said counterparts executed and delivered, each as an original, shall constitute but one and the same instrument.

**Section 7.09. Costs and Expenses:** Mortgagor agrees to pay and be liable for any and all expenses, including, but not limited to reasonable attorney's fees, court costs, receiver's fees, costs of advertisement and agent's compensation, incurred by Mortgagee in exercising or enforcing any of its rights hereunder. Such sums shall be secured hereby and shall be payable forthwith, with interest thereon at the rate specified in Section 4.08 hereof.

**IN WITNESS WHEREOF,** SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC., the Mortgagor, has caused this Mortgage to be signed in its name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, and NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION, as Mortgagee, has caused this Mortgage to be signed in its name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, all as of the day and year first above written.

**[EXECUTED ON THE FOLLOWING PAGES]**

SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.

(SEAL)

By: Gene Manning  
Title: President of The Board

Attest: [Signature]

Title: CREDEN W. HUBER  
CHIEF EXECUTIVE OFFICER

Executed by the Mortgagor in the presence of:

[Signature]  
[Signature]  
Witnesses

STATE OF ARIZONA )  
COUNTY OF COCHISE ) SS

On this 6 day of DECEMBER 2007, before me appeared GENE MANNING and CREDEN W. HUBER personally known by me and, having been duly sworn by me, did say that they are the PRESIDENT and CEO, respectively, of Sulphur Springs Valley Electric Cooperative, Inc., an Arizona corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and the said GENE MANNING and CREDEN W. HUBER acknowledged that the execution of said instrument was a free act and deed of said corporation.

IN WITNESS whereof, I have hereunto set my hand and official seal the day and year last above written.

[Signature]  
Notary Public

(Notarial Seal)

My commission expires





### Appendix A - Instruments Recital

The Maximum Debt Limit referred to in Section 1.01 is \$250,000,000.00

The instruments referred to in the preceding recitals are as follows:

1. "Original Mortgage":

Mortgage Type	Mortgage Date
Restated Mortgage and Security Agreement	March 19, 2004

2. "Current Loan Agreement" is that loan agreement dated as of even date herewith.

3. "Current Notes":

Loan Designation	Loan Amount	Note Date	Maturity Date
AZ014-V-9033	\$70,780,000.00	Dated as of even date herewith	Forty (40) years from the date hereof

4. "Outstanding Loan Agreement" are those loan agreements dated as of:

12/10/1973	08/29/1986	09/08/2004
01/20/1975	04/18/1989	
as amended 04/16/1986	01/29/1992	
01/13/1977	01/19/1994	
as amended 04/15/1986	04/26/1995	
02/24/1978	07/01/1998	
01/17/1980	04/02/2001	
04/23/1982		
as amended 03/15/1983	09/10/2003	
04/09/1984	03/19/2004	

5. "Outstanding Notes"

Loan Designation	Loan Amount	Note Date	Maturity Date
AZ014-A-9002	\$750,000.00	04/09/1974	04/09/2009
AZ014-A-9004	\$820,000.00	05/13/1975 as substituted 09/18/1986	05/13/2010
AZ014-A-9007	\$622,000.00	06/14/1977 as substituted 09/18/1986	06/14/2012
AZ014-A-9010	\$644,000.00	04/18/1978	04/18/2013

## Appendix B

- (a) The Mortgaged Property is located in the Counties of Cochise, Graham, Pima and Santa Cruz in the State of Arizona.
- (b) The property referred to in the Granting Clause includes the following:

SEE ATTACHED

AZ014-A-9013	\$2,171,000.00	05/20/1980	05/20/2015
AZ014-A-9016	\$1,988,000.00	08/20/1982 as substituted 08/29/1983	08/20/2017
AZ014-A-9017	\$2,104,000.00	08/20/1984	08/20/2019
AZ014-A-9018	\$3,520,833.00	11/18/1986	11/18/2021
AZ014-A-9019	\$2,401,042.00	04/18/1989	04/18/2024
AZ014-A-9020	\$1,781,250.00	01/29/1992	01/29/2027
AZ014-A-9021	\$1,808,333.00	01/19/1994	01/19/2029
AZ014-A-9022	\$1,705,000.00	04/26/1995	04/26/2030
AZ014-A-9023	\$3,714,000.00	07/01/1998	07/01/2033
AZ014-A-9026	\$18,281,000.00	04/02/2001 as substituted 03/25/2004	04/02/2036
AZ014-A-9027	\$2,878,000.00	04/02/2001 as substituted 03/25/2004	04/02/2036
AZ014-A-9028	\$9,270,000.00	03/19/2004	03/19/2039
AZ014-A-9029	\$28,304,131.00	09/10/2003	12/31/2028
AZ014-V-9030	\$46,364,000.00	09/08/2004	09/08/2044

1. A certain tract of land described in a certain deed, dated July 20, 1939, by First National Bank of Arizona, Phoenix, as trustee, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Book 74, Mortgages of Real Estate, page 282.
2. A certain tract of land described in a certain deed, dated January 25, 1944, by Southern Arizona Public Service Company, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Book 136, page 272. EXCEPT Lots 11, 12, 13, 14, 15 and 16, in Block 33, Willcox Townsite, Cochise County, Arizona; Lot 2, Block 2, Bryan's Addition to Benson, Cochise County, Arizona.
3. A certain tract of land described in a certain deed, dated November 16, 1944, recorded June 2, 1949, by Myron B. Davis, as trustee for Myron B. Davis, Katherine Davis, Eleanor Davis, R. L. Davis, Jr., Elizabeth Davis, and Edwin Davis, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 26, pages 275-276.
4. A certain tract of land described in a certain deed, dated September 16, 1950, by S. E. Evans and Ila Evans, his wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 54, pages 540-542.
5. A certain tract of land described in a certain deed (quit claim), dated August 13, 1953, by Charles S. Boll and Estelle M. Boll, his wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 105, pages 97-98.
6. A certain tract of land described in a certain deed, dated January 11, 1954, by John L. and Eva C. Stevens, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 96, pages 371-372.
7. A certain tract of land described in a certain deed, dated November 30, 1954, by Charles E. Morris and Norma E. Morris, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 111, pages 547-548.
8. A certain tract of land described in a certain deed, dated November 18, 1955, by the Willcox Board of Trustees No. 13, its grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 136, pages 121-122.
9. A certain tract of land described in a certain deed, dated October 9, 1956, by City Council of Willcox, Arizona, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 155, pages 450-452, No. 12175.
10. A certain tract of land described in a certain deed, dated March 21, 1957, by Phoenix Title

and Trust, trustee for Margaret Z. Carmichael, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 166, pages 251-252.

11. A certain tract of land described in a certain deed, dated April 29, 1958, by G. W. Page, a single man, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 191, pages 176-177.
12. A certain tract of land described in a certain deed, dated May 21, 1958, by Allgood Land and Cattle, a corporation, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 206, pages 58-59.
13. A certain tract of land described in a certain deed, dated March 4, 1959, by Bert N. Smith and Mildred L. Smith, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 210, page 294.
14. A certain tract of land described in a certain deed, dated January 22, 1960, by Cassie B. Cawood, a widow, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 236, pages 187-188.
15. A certain tract of land described in a certain deed, dated January 23, 1961, by Phoenix Title and Trust, as grantor, to mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 266, page 298.
16. A certain tract of land described in a certain deed, dated December 1, 1961, by Edward G. Loftus and Mona L. Loftus, husband and wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Santa Cruz County Recorder, State of Arizona, in Docket 42, pages 100-101.
17. A certain tract of land described in a certain deed, dated January 25, 1963, by Delia Davis, a widow, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 323, pages 449-450.
18. A certain tract of land described in a certain deed, dated June 25, 1964, by George V. Grosh and Mildred S. Grosh, his wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 359, pages 388.
19. A certain tract of land described in a certain deed, dated November 16, 1964, by M. C. Murrell, President of Sulphur Springs Development Company, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 369, page 252, Instrument No. 18873.
20. A certain tract of land described in a certain deed, dated March 12, 1965, by John Boyd and Mary Boyd, his wife, and Wayne Boyd and Eloise Boyd, his wife, as grantors, to the

mortgagor, as grantee, and recorded in the office of Graham County Recorder, State of Arizona, in Docket 101, page 337.

21. A certain tract of land described in a certain deed, dated January 24, 1968, by the Arizona Electric Power Cooperative, Inc., as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 522, pages 361-362.
22. A certain tract of land described in a certain deed, dated July 24, 1969, by Kern County Land Company, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 598, pages 532-533.
23. A certain tract of land described in a certain deed, dated September 23, 1969, by Gifford-Hill and Company, a Delaware Corporation, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 610, pages 145-147.
24. A certain tract of land described in a certain deed, dated July 3, 1973, by Board of Trustees of School District No. 13, Willcox, Arizona, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 929, page 37.
25. A certain tract of land described in a certain deed, dated June 10, 1974, by Robley G. Gould and Hilda H. Gould, husband and wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 940, page 534.
26. A certain tract of land described in a certain deed, dated July 26, 1974, by Scott V. Swanson and Pauline U. Swanson, husband and wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 956, page 229.
27. A certain tract of land described in a certain deed, dated January 20, 1975, by H. Wayne Peterson and Nelda Louise Peterson, husband and wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 995, page 54.
28. A certain tract of land described in a certain deed, dated October 22, 1976, by William S. Yarbrough and Valta E. Yarbrough, husband and wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 1112, page 496.
29. A certain tract of land described in a certain deed, dated December 27, 1979, by Albert L. Blankenship, President, Blankenship Construction Co., Inc., an Arizona corporation, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County

Recorder, State of Arizona, in Docket 1389, pages 25-26.

30. A certain tract of land described in a certain deed, dated January 29, 1982, by Joseph J. DeFrancesco, Esquire, Trustee, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 1568, pages 7-8.
31. A certain tract of land described in a certain deed, dated March 1, 1982, by Keith L. Hakes, Member, Board of Trustees of Sierra Vista United Methodist Church, an Arizona corporation, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 1576, pages 66-67.
32. A certain tract of land described in a certain deed, dated May 28, 1982, by Samuel J. Fraizer and Ilene M. Fraizer, husband and wife, as grantors, to the mortgagor, as grantee, and recorded in the office of Santa Cruz County Recorder, State of Arizona, in Docket 327, pages 85-86.
33. A certain tract of land described in a certain deed, dated September 26, 1983, by Ted Johnson, President, Grain Co-op of Arizona, an Arizona corporation, as grantor, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, in Docket 1706, page 517.
34. A certain tract of land described in a certain deed, dated April 21, 1986, by Carl A. Naegle and Lena B. Naegle, as to an undivided  $\frac{1}{2}$  interest, and Raymond L. Naegle and Doris G. Naegle, as to an undivided  $\frac{1}{2}$  interest, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, as Fee #860408371.
35. A certain tract of land described in a certain deed, dated August 28, 1986, by James K. Kerley and Katherine M. Kerley, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, as Fee #860919128.
36. A certain tract of land described in a certain deed, dated March 8, 1994, by Judy F. Cocks, Jacqueline Elizabeth Hooker Hughes, and M. R. Campbell and Linda O. Campbell, as grantors, to the mortgagor, as grantee, and recorded in the office of Cochise County Recorder, State of Arizona, as Fee #940306590.
37. A certain tract of land described in a certain deed, dated January 6, 1998, by Socorro Isabel D. Avila, also known as Isabel D Avila, as grantor, to the mortgagor, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee Number 980101776.

38. A certain tract of land described in a certain deed, dated May 19, 2003, by Eurofresh, Inc., an Arizona corporation, as grantor, to the mortgagor, as grantee, and recorded in the office of the Graham County Recorder, State of Arizona, at Fee # 2003-03354.

TOGETHER WITH all plants, works, structures, erections, reservoirs, dams, buildings, fixtures and improvements now or hereafter located on any of the properties conveyed by any and all of the aforesaid deeds mentioned above, and all tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in anywise appertaining.

The description of each of the properties conveyed by and through the provisions of the aforesaid deeds is by reference make a part hereof as though fully set forth at length herein.

39. A certain tract of land described in a certain deed dated April 28, 2004, by DMN Limited Partnership, an Arizona limited partnership, as grantor, to the mortgagor, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee #040514988.
40. A certain tract of land described in a certain deed dated December 13, 2004, by Pioneer Title Agency, Inc., an Arizona corporation, as Trustee, under Trust No. 00953330, as grantor, to the mortgagor, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee #050100417.
41. A certain tract of land described in a certain deed dated March 9, 2005, by Castle & Cooke Arizona, Inc., an Arizona Corporation formerly known as Arizona Newsub, Inc., an Arizona Corporation, as grantor, to the mortgagor, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee #050413790.
42. A certain tract of land described in a certain deed dated March 30, 2006, by Spilde Investments, L.L.C., an Arizona limited liability company, as grantor, to the mortgagor, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee #060312209.
43. A certain tract of land described in a certain deed dated April 6, 2006, by Leslie H. Jones and Mary D. Jones, as Trustees of the Leslie H. Jones and Mary D. Jones Revocable Trust, dated March 25, 1996, as grantors, to the mortgagor, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee #060414227.
44. A certain tract of land described in a certain deed dated August 16, 2006, by the County of Cochise, a political subdivision, as grantor, to the mortgagor, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee #060831698.
45. A certain tract of land described in a certain deed dated July 2, 2007, by Linda Jo Langley, Trustee of the Angelita F. Spencer Irrevocable Trust, as grantor, to the

mortgagor, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee #070722303.

EXCEPTING therefrom, a certain tract of land described in a certain deed dated June 29, 2005, by the mortgagor, as grantor, to Castle & Cooke Arizona, Inc., an Arizona Corporation, as grantee, and recorded in the office of the Cochise County Recorder, State of Arizona, at Fee #050725599.

**Appendix C -Excepted Property**

NONE