Attachment A Loan Originator Agreement Green Jobs/Green New York Small Business / Not-for-Profit On-Bill Recovery Program

Loan Originator:				
_	(Financial Inst	titution, including	all subsidiaries)	
Contact Person:				
	Bank Officer who will Originate G	JGNY On-Bill Reco	overy loans on behalf of NYSERDA	
Mailing Address:				
Walling Address.				
Federal Tax ID #:				
Telephone Number:	Fax Number:		E-mail:	
Whereas, the Power NY	Act of 2011 authorized NYSERDA to	o offer loans to s	support energy efficiency retrofits in Small	
Business (SB) and Not-fo	r-Profit (NFP) facilities through the	Green Jobs/Gre	en New York (GJGNY) program, repayable	
through an installment c	harge on the electric or gas corpora	ation utility bill	of an eligible small business or not-for-profit (On-	
Bill Recovery or OBR).				
	, ,	• •	d between the New York State Energy Research	
	rity ("NYSERDA") and			
"Loan Originator") with r	espect to originating GJGNY OBR L	oans for Small B	usinesses and Not-for-Profits on behalf of	
NYSERDA to finance ener	rgy-efficiency improvements as des	scribed in the GJ	GNY Small Business / Not-for-Profit Program	
(nyserda.ny.gov/gjgny-sr	mall-business-nonprofit-financing,),	, is made subjec	t to the terms of NYSERDA Program Opportunity	
Notice (PON) 2293 and t	he terms and conditions attached a	as Exhibit A.		
IN MUTNESS MULEBEOF				
		agreement to b	e duly executed, intending to be legally bound	
hereby, the day and date	e set forth below.			
			New York State Energy Research and Development	
ORIGINATOR:		Authority	,	
BY:		BY:		
		PRINT		
PRINT NAME:		NAME:	Jeffrey J. Pitkin	
TITLE:		TITLE	Treasurer	
DATE:		DATE:		
Email or FAX <u>two</u> comple	eted Agreements to NYSERDA: gjgn	ysbnfp@nyserd	a.org or 518-862-1091	
	ovide the following information fo	r use on our we	ebsite, nyserda.ny.gov/gjgny-small-business-	
nonprofit-financing		Address		
Commercial Contact:	Fave	Address: E-mail:		
Phone:	Fax: st all New York counties served):	E-IIIdII.		
remains vesion (biease in	st all inew fork coulliles served):			

1. Definitions:

- Approved Energy Efficiency Measures Worksheet: Worksheet included in the Request for Financing Package, completed by the Applicant, which identifies the eligible energy efficiency improvements, associated costs to implement, estimated annual energy cost savings, simple payback, and total Eligible Loan Amount.
- Eligible Applicant (or Applicant): 1) A person or entity that owns a Non-Residential Structure; OR 2) a person or entity that leases or manages all or part of a Non-Residential Structure, AND is authorized to make improvements to such structure, AND has obtained a release from the owner of the Non-Residential Structure, as evidenced by owner's signature in the Request for Financing Form, to sign the Note, AND has obtained the owner's agreement to sign the On-Bill Recovery Program Declaration. Eligibility of not-for-profit entities that own a residential (1-4 family) structure will be determined at NYSERDA's discretion.
- Loan Originator: A community development financial institution, a credit union insured by the National Credit Union Association, or any commercial bank, trust company, savings bank, savings and loan association, or mortgage Loan Originator authorized by Federal or State law to operate in New York State.
- Master Loan Servicer: NYSERDA's third party loan servicer, currently the Concord Servicing Corporation, retained to monitor OBR Loan origination and provide servicing on GJGNY loans. NYSERDA shall notify Loan Originator in writing not less than 60 days in advance of any change in the Master Loan Servicer during the term of this Agreement.
- **Non-Residential Structure:** A building that is used or occupied by a Small Business or a Not-for-profit corporation.
- **Note:** A NYSERDA provided template, the On-Bill Recovery Loan Note, used by the Loan Originator when originating Small Business/ Not-for-Profit OBR Loans on behalf of NYSERDA. The Note template is available on the NYSERDA website (nyserda.ny.gov/gjgny-small-business-nonprofit-financing).
- **Not-for-profit:** A corporation resident in New York State formed exclusively for a purpose or purposes, not for profit or financial gain, and where no part of the assets, income or profit is distributable to or benefits its members, directors, or officers, except as allowed by statute.
- **OBR Loan**: A loan, originated on behalf of NYSERDA. The OBR loan will have a fixed term greater than or equal to the minimum OBR Loan term identified on the NYSERDA-approved Request for Financing Package but not to exceed 10 years, and a 2.5% interest rate. OBR Loan shall mean the Note, the On-Bill Recovery Program Declaration, the On-Bill Recovery Program Notice to Borrower, and other forms as required by applicable federal and state laws and regulations. NYSERDA shall notify Loan Originator in writing not less than 60 days in advance of any change in the interest rate.
- On-Bill Recovery Program Declaration: A NYSERDA-provided document, signed and notarized by the owner of the Non-Residential Structure, evidencing the existence of the OBR Loan, the total OBR Loan Amount and term, and noting that the OBR Loan is repaid through a charge on the utility bill, which, if not fully satisfied prior to the sale or transfer of ownership, shall survive changes in ownership, tenancy or meter account responsibility. The OBR Program Declaration notifies subsequent purchasers of the property of the existence of the OBR Loan. This OBR Program Declaration form is available on the NYSERDA website (nyserda.ny.gov/gigny-small-business-nonprofit-financing).
- On-Bill Recovery Program Notice to Borrower: A NYSERDA-provided document describing the conditions of the On-Bill Recovery Program and the process for submission and resolution of customer complaints. This document is available on the NYSERDA website (nyserda.ny.gov/gigny-small-business-nonprofit-financing).
- Origination Fee: \$300 paid to the Loan Originator by NYSERDA for each OBR Loan closed by the Loan Originator on behalf of NYSERDA. This fee is paid to the Loan Originator via wire transfer no sooner than weekly for OBR Loans closed in the prior week. NYSERDA shall notify Loan Originator in writing not less than 60 days in advance of any change to the amount of the Origination Fee.
- **Program Requirements:** The NYSERDA-approved terms in the Request for Financing Package and the Terms and Conditions in this Agreement in their entirety, including the Underwriting Criteria defined below.
- Request for Financing Package: Project application package used as the basis for the OBR Loan, approved by NYSERDA, and provided by the Applicant to the Loan Originator, containing: 1) Request for Financing Form;

Exhibit A - Loan Originator Agreement - Terms and Conditions

- 2) Approved Energy Efficiency Measures Worksheet; 3) Contractor's cost proposal for measures to be implemented; 4) Copy of technical specification sheets for measures to be implemented; and 5) Copy of an approved qualified energy audit. This package does not include the financial statements, tax returns, and other documents described below that Loan Originator will need for underwriting purposes.
- **Small Business:** A business that is resident in New York State, independently owned and operated, not dominant in its field, and has 100 or less employees.
- Small Business/Not-for-Profit Template: A template form used to electronically transmit information on closed OBR Loans to the Master Loan Servicer. The form and the transmittal instructions are available on the NYSERDA website (nyserda.ny.gov/gigny-small-business-nonprofit-financing).
- **Title Company**: NYSERDA's contractor, currently NY Title Research Corporation, retained to: perform a last owner search to verify property ownership for an OBR Loan; record the On-Bill Recovery Program Declaration executed by the owner in conjunction with the OBR Loan; and to record declaration satisfaction. NYSERDA shall notify Loan Originator in writing not less than 60 days in advance of any change in the Title Company during the term of this Agreement.

2. OBR Loan Review and Approval Process

The Applicant shall provide and the Loan Originator shall review the Applicant's NYSERDA-approved Request for Financing Package and financial and other information, and determine Applicant's eligibility to receive an OBR Loan based on the following:

a. Underwriting Criteria:

- i. Organization in existence at least two years.
- ii. Credit score of principal(s) of Small Business of 650 or higher.
- iii. No bankruptcies within the last 5 years.
- iv. No current judgments or liens in excess of \$5,000
- v. Debt service coverage ratio ≥ 1.2
- b. **Financial and Other Information for Underwriting OBR Loans:** The Loan Originator shall collect from the Applicant sufficient information and documentation to underwrite the OBR Loan in a commercially reasonable manner
- c. **Interest Rate:** 2.5%. NYSERDA shall notify the Loan Originator 60 days in advance of the effective date of a change in the interest rate.
- d. Eligible Loan Amount: The total energy efficiency project cost as approved by NYSERDA in the Request for Financing Package. The maximum amount of financing the Applicant can receive from NYSERDA is \$50,000. The OBR Loan amount the Loan Originator issues to a borrower at loan closing must be within 10% of the Eligible Loan Amount. Loan Originators are required to obtain NYSERDA approval before issuing an OBR Loan that is 10% higher or lower than the Eligible Loan Amount identified on the NYSERDA—approved Request for Financing Package.
- e. **Loan Term:** A fixed term greater than or equal to the minimum loan term identified in the NYSERDA-approved Request for Financing Package but not to exceed 10 years.
- f. **Request for Financing Package:** An Applicant seeking financing via OBR must provide the Loan Originator a copy of the Request for Financing Package, approved by NYSERDA and signed by the Applicant. Applicant's signature on the Request for Financing Form authorizes NYSERDA, or the Loan Originator on behalf of NYSERDA, the right to access items including, but not limited to, a credit report(s), a FICO score, personal and organizational financial statements and tax returns, and perform similar credit related activities for the purpose of evaluating an Applicant's creditworthiness.
- g. **Property Ownership Verification:** Upon determination that Applicant meets the Underwriting Criteria and is, therefore, eligible for an OBR Loan, the Loan Originator shall request the Title Company to perform a last owner search on the property where the Non-Residential Structure is located to determine the current

Exhibit A - Loan Originator Agreement - Terms and Conditions

- owners. Upon receiving the last owner search, the Loan Originator shall prepare the On-Bill Recovery Program Declaration for signature by all owners of the property and shall include the property description as provided on the last owner search report. NYSERDA shall be responsible for paying the fee for the Title Company to prepare the title search and to record the declaration once signed.
- h. **Denials:** Applicants who do not meet NYSERDA OBR underwriting criteria will not qualify for OBR financing and shall receive a denial letter from the Loan Originator. The letter shall be mailed within two (2) business days from the day the decision is made and will include the reason for the denial and list the name, address, and toll-free telephone number of the credit bureau accessed to make the loan decision. Loan Originator shall transmit a copy of the denial letter to NYSERDA.

3. NYSERDA Approval Process – Pre-Closing Review:

The OBR Loan documents will undergo a pre-closing review by the Master Loan Servicer on behalf of NYSERDA.

- a) Before closing on the OBR Loan, the Loan Originator will electronically transmit to NYSERDA's Master Loan Servicer a copy of the pre-printed, unexecuted OBR Loan documents and a copy of the Applicant's Request for Financing Package. Supporting OBR Loan documents shall include at a minimum:
 - 1) The Green Jobs/ Green New York On- Bill Recovery Note
 - 2) The On-Bill Recovery Program Declaration
 - 3) The On-Bill Recovery Program Notice to Borrower, and
 - 4) Other forms as required by applicable federal and state laws and regulations.
- b) The Master Loan Servicer shall confirm that the unexecuted OBR Loan documents and the Eligible Loan Amount comport with NYSERDA Program Requirements and the Applicant's Request for Financing Package. The Master Loan Servicer will complete its review and notify Loan Originator and copy NYSERDA within three 3 business days of receipt of the unexecuted OBR Loan documents from the Loan Originator. The Master Loan Servicer will notify the Loan Originator should any deficiencies be found. It is the responsibility of the Loan Originator to correct any identified deficiencies.

4. Closing Process:

- a) Upon receipt of confirmation from the Master Loan Servicer, the Loan Originator shall provide the OBR Loan documents directly to the Applicant.
- b) The Loan Originator will require the Applicant to sign and notarize the Note and will require all owners of the property to sign and notarize the On-Bill Recovery Program Declaration.
- c) After the Note and On-Bill Recovery Program Declaration have been executed and notarized, the Loan Originator shall disburse the OBR Loan proceeds to the Applicant pursuant to the Note.
- d) Loan Originator is responsible for assuring that each OBR Loan made on NYSERDA's behalf for which it seeks reimbursement, complies with the Program Requirements and the OBR Loan underwriting standards stated herein and applicable at the time the OBR Loan is underwritten.
- e) It shall be NYSERDA's responsibility to ensure that the form of Note, On-Bill Recovery Program Declaration, and the On-Bill Recovery Program Notice to Borrower used for OBR Loans, when made on behalf of NYSERDA, comply with the Power NY Act of 2011. NYSERDA reserves the right to require Loan Originator, at its expense, to revise all OBR Loan documents if it is determined that the OBR Loan does not comply with Program Requirements.

5. Reporting OBR Loan Closing to Master Loan Servicer:

After closing on the OBR Loan and disbursing funds to the borrower, the Loan Originator shall transmit a data file and executed OBR Loan documents to the Master Loan Servicer for verification, per the transmittal instructions found on the NYSERDA website (nyserda.ny.gov/gigny-small-business-nonprofit-financing). The Master Loan Servicer will send the On-Bill recovery Program Declaration to the Title Company to have the document recorded.

6. Post-Closing Review by Master Loan Servicer

- a) Pursuant to its agreement with NYSERDA, the Master Loan Servicer shall confirm the executed OBR Loan documents have not been modified since the pre-closing review and that the OBR Loan conforms to NYSERDA's Underwriting Criteria. If there are discrepancies, the Master Loan Servicer will contact the Loan Originator for clarification. All discrepancies must be resolved before NYSERDA reimbursement can be authorized.
- b) The Master Loan Servicer will notify NYSERDA and the Loan Originator of any OBR Loans presented for reimbursement that do not meet NYSERDA's Underwriting Criteria. Such notification will give notice to the Loan Originator of its responsibility should NYSERDA incur losses on OBR Loans not meeting the Underwriting Criteria.
- c) If discrepancies are resolved and the OBR Loans conform to the Underwriting Criteria, the Master Loan Servicer will submit invoicing information to NYSERDA to reimburse the Loan Originator for the OBR Loan amount and the Origination Fee.

7. Reimbursement and Payment of Loan Originator:

- a) The Master Loan Servicer shall complete its review within two (2) business days of receipt from Loan Originator of the executed OBR Loan closing documents. Upon approval and confirmation by the Master Loan Servicer, NYSERDA's OBR Loan amount shall be transferred from NYSERDA to Loan Originator, based upon the payment instructions provided by the Loan Originator in Exhibit B, within seven (7) business days of confirmation by NYSERDA's Master Loan Servicer.
- b) NYSERDA shall pay the Loan Originator via wire transfer the sum of all OBR Loans approved, plus the OBR Loan Origination Fees. NYSERDA processes electronic funds transfers once weekly (Tuesdays) for transfers to occur on Thursdays, unless otherwise noted. Loan Originators must submit the required OBR Loan closing documents to allow the Master Loan Servicer sufficient time to review and approve before the Tuesday processing deadline to ensure timely funds transfer. NYSERDA shall notify Loan Originator 60 days in advance of any changes to invoice processing.

8. Loan Originator Representations and Warrants:

- a) Loan Originator represents and warrants to NYSERDA as to each OBR Loan originated under this Agreement, as of the date of NYSERDA's reimbursement of such OBR Loan, that:
 - i. The OBR Loan documents have been duly executed by the borrower and Loan Originator;
 - ii. The OBR Loan is valid and complies with the Program Requirements and the OBR Loan Underwriting Criteria stated herein;
 - iii. The Loan Originator recognizes that there is a fixed amount of funding available from NYSERDA and the revolving loan fund as noted in NYSERDA PON 2293. NYSERDA will notify participating Loan Originators if the revolving loan fund balance falls below 95% of current funding levels such that additional loan applications and approvals would be impacted.
 - iv. All OBR Loan documents submitted to NYSERDA are genuine and complete in all respects, enforceable against the borrower(s) in accordance with NYSERDA's terms and conditions and any and all state and federal laws.
 - v. Any and all state and federal laws and regulations applicable to the OBR Loan have been complied with.

9. Right to Enforce

NYSERDA shall have the sole right to receive payment of, to collect, or to otherwise realize all payments under the Note and to enforce all obligations of any borrower under the Note.

10. Non-Compliant OBR Loans

If at any time during the life of an OBR Loan, NYSERDA or its agents determines that the OBR Loan does not meet OBR Loan Underwriting Criteria through the negligent act of the Loan Originator, the Loan Originator shall be

Exhibit A - Loan Originator Agreement - Terms and Conditions

responsible for any losses incurred by NYSERDA over the term of the OBR Loan. NYSERDA shall notify the Loan Originator in writing upon discovering any OBR Loans that do not meet NYSERDA's OBR Loan Underwriting Criteria, and provide the Loan Originator the nature of the deficiency. If any losses are subsequently incurred on the OBR Loan, NYSERDA shall provide written request to Loan Originator to reimburse such losses.

11. General Terms:

If the Loan Originator fails to comply with the terms and conditions of this Agreement or originates more than one OBR Loan not meeting the Underwriting Criteria stated herein, NYSERDA reserves the right to revoke Loan Originator's right to provide the GJGNY Small Business / Not-for-Profit On-Bill Recovery Loan Product.

Exhibit B - Loan Originator Agreement - Electronic Funds Transfer Bank Information and Authorization

The NYSERDA OBR Loan Amount is paid via electronic funds transfer to the Loan Originator upon confirmation of closing of the On-Bill Recovery Loan Product. Complete the following payment instructions to authorize payment:

EFT Bank Information and Authorization Form

PLEASE COMPLETE THE ITEMS BELOW

	Federal Emp	bloyer Identification Number (FEIN)	
Payee Name & Address: (Please T	ype or Print)		
Payee Name			
Address Line 1			
Address Line 2			
City	State	Zip Code	
Financial Institution:			
ROUTING NUMBER	(see example belo	w) ACCOUNT NO	(See example below)
transfer. In the event that an erro	neous electronic payment is s	ent, NYSERDA reserves the right to	ated bank account through an electronic fund freverse' the electronic payment. In the event ments to which the payee was not entitled.
Authorized Official Signature and	Fitle:		
Date:			
Contact Name:		_	
e-mail address:			
Phone Number: ()			

Remittance Fax Number for Notification: (______ - ______ -