



The Energy Improvement Corporation  
Energize NY PACE Commercial Handbook

## Table of Contents

<b>1. The Energize NY PACE Program</b>	<b>4</b>
Program Overview	4
This Handbook is for Commercial Property Owners	4
Is this Program Right for You?	4
Modification of this Handbook	4
Contact Us	4
<b>2. Property Owner, and Property Eligibility</b>	<b>5</b>
Property Owner Eligibility	5
All Owners Must Have Legal Capacity to Contract	5
No Involuntary Liens	5
Maximum Loan to Value	5
Property Taxes are Current	5
Mortgage Debt, if any, is Current	5
No Bankruptcy	5
Lender Consent	5
Property Eligibility	6
Property Location	6
Determining Value	6
<b>3. Project, and Contractor Eligibility</b>	<b>6</b>
Eligible Improvements	6
Qualified Energy Audit or Renewable Energy System Feasibility Study	7
Qualified Installers, Contractors	7
<b>4. Program Term, Conditions, and Fees</b>	<b>7</b>
Minimum and Maximum Finance Amount	7
Maturity of the Assessment	7
Program Fees	7
Expenses Eligible for Financing	8
Prepayment of the Financing Agreement	8
Deduction of Rebates from Project Cost	8
<b>5. Application, Approval, and Closing Process</b>	<b>8</b>
Step 1: Determine Eligibility and Submit a Pre-Application	8
Pre-Application Review	9
Step 2: Assess	9
Qualified NYSERDA Energy Program	9
Qualified Utility Energy Program	10
PACE Certified Energy Audit	10
Energy Audit or Feasibility Study	10
Review Results of Energy Audit	10
Review Results of Feasibility Study	11
Finalize Scope of Work	11
Step 3: Apply	11
Required Documentation	11
Complete the Application	12
Agreement Documents	12

Step 4: Improve .....	12
Submit a Certificate of Completion .....	13
Remitting Disbursement Amount.....	13
Notice of Record .....	13
Enjoy Your Energy Savings .....	13
<b>Appendix A: Underwriting Criteria .....</b>	<b>14</b>
<b>Appendix B: Finance Checklist.....</b>	<b>18</b>
<b>Appendix C: Energize NY Finance Agreement.....</b>	<b>20</b>
<b>Appendix D: Energize NY Finance Disclosure.....</b>	<b>40</b>
<b>Appendix E: Energize NY Program Declaration .....</b>	<b>42</b>
<b>Appendix F: Glossary .....</b>	<b>45</b>

# 1. The Energize NY PACE Program

## Program Overview

The Energy Improvement Corporation (“EIC”) and its [Participating Municipal Members](#) offers the Energize New York Benefit Finance Program (“Energize NY PACE” or the “Program”) to Property Owners to provide attractive financing for eligible energy related improvements (the “Improvements”). EIC is a local development corporation and a New York State nonprofit established specifically to assist municipalities and Property Owners improve buildings to lower energy costs, generate renewable energy and support the growth of a clean energy economy.

Energize NY PACE provides an alternative to traditional equity or unsecured loans. The Program uses an innovative form of financing called Property Assessed Clean Energy (PACE) financing. Under the PACE financing model, a Property Owner opts to pay for energy Improvements by authorizing the municipality where the Property is located to add a special assessment to the Property (a “Financing Charge”) for that purpose. The Financing Charge will be repayable in equal annual installments over a number of years up to the useful life of the Improvements in an amount sufficient to fully pay off the financing. Originally created in California in 2008, PACE financing programs have been authorized by a majority of U.S. states, including New York, to achieve statewide energy efficiency and renewable energy goals.

Energize NY PACE is authorized by New York State General Municipal Law Article 5-L.

## This Handbook is for Commercial Property Owners

This PACE Commercial Handbook (the “Handbook”) is for Property Owners interested in financing the installation of Improvements to any Property that is not owned by an individual, including retail stores, commercial buildings, industrial buildings, multi-family buildings, and agricultural properties, and not-for-profits located in Participating Municipalities. For a list of Participating Municipalities, visit our website at [www.EnergizeNY.org](http://www.EnergizeNY.org).

## Is the Program Right for You?

Energize NY PACE may not be the best financing option for you. You should carefully read this Handbook, the forms of the documents you will be required to sign (see [Appendix](#)), research all available options and then select the option that is most appropriate for you. We make no representations, expressed or implied, that the Energize NY PACE is the right option for you.

## Modification of this Handbook

EIC may, in its sole discretion, modify this Handbook at any time and from time to time. The “Last Updated” date on the front page will indicate when the latest modifications were made. You may check the EIC website at [www.EnergizeNY.org](http://www.EnergizeNY.org), call (914) 302-7300 or email at [info@EnergizeNY.org](mailto:info@EnergizeNY.org) to confirm you are reviewing the current version of this Handbook.

## Contact Us

Please contact us if you have any questions, comments, or suggestions.

Phone: (914) 302-7300

Hours: Monday through Friday, 9AM to 5PM

Email: [info@EnergizeNY.org](mailto:info@EnergizeNY.org)

Mail: The Energy Improvement Corporation  
2051 Baldwin Rd, Suite 107  
Yorktown Heights, NY 10598

## **2. Property Owner, and Property Eligibility**

To be eligible to participate in Energize NY PACE, the Property Owner, the Property and the Improvements to the Property must meet the eligibility criteria in Appendix A. Please review them carefully as the below summary is not comprehensive.

### **Property Owner Eligibility**

A Property Owner or, if there is more than one owner of record, each Property Owner, must be a corporation (both for-profit and not-for-profit), limited liability company, partnership, real estate investment trust (REIT), or an entity that owns real property and pays the property tax on the Property other than a natural person or governmental entity.

### **All Owners Must Have Legal Capacity to Contract**

All owners of record must have legal capacity and the authority to enter into the Energize NY Finance Agreement.

### **No Involuntary Liens**

The Property is not subject to any involuntary liens or judgments in excess of \$1,000 in the aggregate.

### **Maximum Loan to Value**

The total value of the Energize NY PACE financing added to all mortgages and other loans secured by the Property does not exceed 90% of the Appraised Value of the Property as determined by the Program Administrator in their sole discretion.

### **Property Taxes are Current**

Property taxes and assessments are current on the Property and have not been delinquent at any time in the past three (3) years.

### **Mortgage Debt, if any, is Current**

The Property has no mortgage defaults or other Property-related defaults.

### **No Bankruptcy**

The Property Owner may not be in bankruptcy or filed for bankruptcy within the past seven years, and the Property is not an asset subject to a bankruptcy proceeding.

### **Lender Consent**

All existing private lien holders on the Property (including any mortgagees) must provide their prior written consent to the Financing Charge.

### **Property Eligibility**

Eligible property types include retail stores, commercial buildings, industrial buildings, multi-family buildings, agricultural properties, and redevelopment, renovation projects and projects that include additions to existing buildings.

## Property Location

The Property must be located within a Participating Municipality. For a list of Participating Municipalities please visit our [website](#).

## Determining Value

A Property Appraisal is required to ensure that the requested financing amount plus all other mortgages and loans secured by the Property does not exceed 90% of the Appraised Value of the Property. Full appraisals completed within the past year may serve to meet the required conditions above, subject to EIC review. Alternatively, EIC may provide a desktop appraisal of the Property based on the full market value on the local government tax rolls. If the loan-to-value ratio is less than 70% of the Appraised Value of the Property, a desktop appraisal will be sufficient. If the desktop appraisal of the applicant indicates a loan-to-value equal to or in excess of 70%, a full appraisal will be required. Appraisals must be prepared by an approved appraiser of the Members of the Appraisers Institute (MAI). A Certified General Appraiser for the State of New York (CGA) may be used if these variables are met:

1. in counties where no MAI are located, we allow a CGA appraisal to be used instead of a MAI appraisal  
OR
2. when the reported value of the Property is less than or equal to \$3,000,000, and
3. the loan-to-value is less than 70%.

If a CGA appraisal yields a value that is 70% or greater, EIC reserves the right to require a MAI appraisal.

## 3. Project and Contractor Eligibility

### Eligible Improvements

EIC can only finance the installation of permanently affixed, new Improvements. We cannot finance remanufactured, refurbished or slightly used equipment. Examples of products that are not permanently affixed include, but are not limited to, the following:

- Compact fluorescent, screw in lamps;
- Plug load devices;
- Measures that are not permanently installed and can easily be removed;
- Measures that save energy solely due to operational or behavioral changes; and
- Power correction, power conditioning.

Proposed Improvements are evaluated through a qualified energy audit and/or renewable energy system feasibility study and are required to either: 1) generate a Cost Benefit Ratio (“CBR”) of 1 or greater or 2) meet the cost effective criteria outlined in the NYSERDA Commercial PACE Guidance Document for individual measures or 3) have been approved through a NYSERDA or local utility qualified energy program. It should be noted that the CBR calculation defines both energy savings and societal benefits as “savings” and it should, therefore, not be assumed that the Improvement will pay for itself through energy bill savings alone over the term of the Energize NY PACE financing. Examples of such Improvements include, but are not limited to, the following:

- Air and ground source heat pumps;

- Interior and exterior lighting system and controls;
- Solar photovoltaic power generation and battery storage;
- Solar thermal water heating;
- Building envelope upgrades that affect energy consumption and base load, e.g., air-sealing, insulation and other weatherization measures; and
- Boiler, Heating, Cooling, Ventilation upgrades.

### **Qualified Energy Audit / Renewable Energy System Feasibility Study:**

Proposed Improvements must be evaluated through a qualified energy audit and/or a renewable energy system feasibility study using a NYSERDA approved process as referenced in the NYSERDA Commercial PACE Guidance Document and/or through an approved NYSERDA or local utility qualified energy program.

### **Qualified Installers, Contractors**

The Improvements must be installed by professional contractors, design professionals, engineers, architects or other qualified professionals who meet the minimum eligibility criteria corresponding to the category of work being performed and meet standards outlined in the NYSERDA Commercial PACE Guidance Document. A current listing of Qualified Partners can be found on our [website](#).

## **4. Program Term, Conditions and Fees**

### **Minimum and Maximum Finance Amounts**

- The amount of the Energize NY PACE financing must be at least \$25,000;
- The total value of the Energize NY PACE financing must not exceed 35% of the Appraised Value of the Property as determined by the Program Administrator in their sole discretion;
- Total indebtedness, including the Energize NY PACE finance amount, must not exceed 90% of the Appraised Value of the Property as determined by the Program Administrator in its sole discretion;

### **Maturity of the Assessment**

The maturity of the Energize NY PACE financing may not exceed the expected useful life of the installed Improvements financed under the Program, up to a maximum term of 20 years. The expected useful life is determined by industry standards and manufacturers’ warranties.

### **Program Fees**

The Property Owner will incur fees and other costs for using the Program. Program costs include, but are not limited to, the following:

4% upfront fee:

- *3.25%: EIC Operations Fee (\$4,000 min, \$75,000 cap)*
- *.75% Reserve Funds*

Title Search fees apply

Appraisal fees may apply

Recordation Fees (varies by County), which may include registration fees from the title company and County recordation fees.

## **Expenses Eligible for Financing**

Eligible costs include the cost of the eligible Improvements and the installation cost. Installation costs may include the cost of energy audits, labor, designs, and engineering services as well as certain ancillary measures to resolve energy-related health and safety issues. Energy audits, feasibility studies and other pre-development work are eligible as stand-alone PACE eligible measures but may only have a finance term which does not exceed five years. Resiliency measures are also eligible provided such measures pertain to energy consumption and such Improvements are addressed in the energy audit. PACE financing of resiliency measures is not available as a stand-alone project.

## **Prepayment of Financing Agreement**

As set forth in the Finance Agreement, the prepayment options set forth below are subject to the consent of EIC, which consent may be withheld in the sole discretion of EIC.

### **FOR PROJECTS COMPLETED IN PARTICIPATING MUNICIPALITIES WITH PUBLIC CREDIT RATINGS OF 'A' AND ABOVE - (ONE OPTION):**

At the time of execution of the Finance Agreement, the Property Owner may elect to include an option to prepay, in whole and not in part, its Energize NY PACE financing at any time from the date of the execution date of the Finance Agreement upon payment of the outstanding principle balance plus a prepayment premium of two percent (2%) on any outstanding principle balance.

### **FOR PROJECTS COMPLETED IN PARTICIPATING MUNICIPALITIES WITH NO PUBLIC CREDIT RATINGS OR RATINGS BELOW 'A' - (TWO OPTIONS):**

- 1) At the time of execution of the Finance Agreement, the Property Owner may elect to include an option to prepay its Energize NY PACE financing starting at the 10th anniversary from the date of the execution of the Finance Agreement at premium of an additional 0.25% to the base Energize NY PACE interest rate.
- 2) Upon change of ownership of property, the Energize NY PACE financing may be prepaid at the election of the Property Owner upon payment of the outstanding principle balance plus an extraordinary premium of ten percent (10%) on the outstanding principle balance.

## **Deduction of Rebates from Project Costs**

Rebates or incentives that are payable in a lump sum are required to be deducted from the amount of the project cost eligible for financing. You are not required to deduct performance-based incentives that are paid out over time.

## **5. Application, Approval, and Closing Process**

There are four simple steps to the application and approval process.

### **Step 1: Determine Eligibility and Submit a Pre-Application**

If you meet the minimum eligibility requirements, the next step is to complete and submit an Energize NY PACE Pre-Application to EIC. All Property Owners of record must complete and sign the Pre-Application. Incomplete or incorrect Pre-Applications cannot be processed. Please keep a copy of your completed Pre-Application and any supplemental documents that you submit. For your convenience, a fillable PDF is provided for your use.



Please type or print neatly in blue or black ink. You may submit the Pre-Application by mail, fax or via secure upload:

**Mail:** Energy Improvement Corporation

2051 Baldwin Rd, Suite 107

Yorktown Heights, NY 10598

**Fax:** (914) 302-7304 Attn: Program Administrator

**Secure Upload:** Send an email to [finance@energizeny.org](mailto:finance@energizeny.org) with “*Secure Upload Request*” in the subject line. We will send you instructions on how to securely upload your application online.

**Questions?** For questions regarding the status of your Pre-application, please contact us at (914) 302-7300 or email [finance@energizeny.org](mailto:finance@energizeny.org).

## Pre-Application Review

Upon receipt of a Pre-Application, the Program Administrator will carry out a prequalification review of the application to verify that the initial eligibility requirements are met. The Program Administrator will notify you by email if your Pre-Application has been accepted. If accepted, you will be granted a Conditional Reservation Number. **Prequalification DOES NOT constitute an approval of the Energize NY PACE financing, but rather an evaluation of the Property’s eligibility for financing.**

## Conditional Reservation Number

Your Conditional Reservation Number confirms pre-qualification to apply for Energize NY PACE financing for Improvements recommended by your qualified energy audit (next step). The financing amount may include eligible Improvements as well as certain fees for Program administration. Failure to finalize the application requirements within 90 days or to obtain a filing extension will result in the cancellation of the Conditional Reservation Number.

## Step 2: Assess

- 1) Proposed Improvements must be evaluated through a qualified energy audit and/or a renewable energy system feasibility study using a NYSERDA approved process as referenced in the NYSERDA Commercial PACE Guidance Document and/or through an approved NYSERDA or local utility qualified energy program.

## Qualified NYSERDA Energy Program

A qualified NYSERDA Energy Program is an energy efficiency or renewable energy program approved and administered by NYSERDA. Examples of qualified NYSERDA Energy Programs include, but are not limited to, the following:

- Air Source Heat Pump Program;
- Agricultural Energy Audit Program;
- Combined Heat and Power Program;
- Flexible Technical Assistance Program;
- Ground Source Heat Pump Rebate; and
- Multifamily Performance Program.

For a full list of NYSERDA programs please visit their [website](#).

## **Qualified Utility Energy Programs**

A qualified Utility Energy Program is an energy efficiency or renewable energy program approved by an investor owned utility, Long Island Power Authority, or New York Power Authority. Examples of investor owned utility programs include but are not limited to the following:

- The Consolidated Edison Commercial & Industrial Energy Efficiency Program
- National Grid Commercial Energy Efficiency Rebate Programs
- NYSEG Commercial and Industrial Rebate Program

## **PACE Certified Energy Audit**

Energy audits conducted by entities that hold the following licenses or certifications are considered PACE certified.

- New York State Licensed Professional Engineer (“P.E.”) who will sign and stamp the audit; or
- New York State Licensed Architect (“R.A.” or “AIA”); or;
- AEE Certified Energy Manager (C.E.M.); or;
- AEE Certified Energy Auditor (C.E.A.); or;
- BPI Multifamily Building Analyst (multifamily audits only); or;
- BPI Building Analyst; or;
- BPI Home Energy Professional (HEP) Energy Auditor; or;
- ASHRAE- Building Energy Assessment Professional; or;
- ICP Quality Assurance (QA) Assessor

## **Energy Audit or Feasibility Study**

A Qualified Energy Program or a certified PACE energy auditor or provider of feasibility studies will produce a formal evaluation of the energy consumption of a permanent building, structural improvement to the property or renewable energy system for the purpose of identifying appropriate improvements to be made to the property. The results of your energy audit will form the basis for determining which eligible Improvements are desired for financing. How you go about your building’s energy audit will depend on which specific Qualified Energy Program or energy auditor you choose to use. Energize NY PACE is not responsible for determining the appropriate consultant to perform the qualified energy audit and/or renewable energy system feasibility study of your Property or for determining the appropriate contractor to make the Improvements.

## **Review Results of Qualified Energy Audit**

After conducting the qualified energy audit, your energy auditor will provide you with a report of your building’s energy use and where it may be wasting energy. This report typically includes an overview of the current performance levels of your building’s energy systems, including walls, roof, insulation, apertures, heating and cooling equipment, motors, temperature controls, and lighting, together with the following:

- A detailed, itemized description of permanently affixed and recommended energy Improvements
- Anticipated energy savings (in Dollars, British Thermal Units (Btu) and kilowatt hours (kWh)) of recommended Improvements;
- A projected Savings to Investment Ratio and cash flow estimates for the Improvements, comparing the cost of the Improvements to the annual energy savings.

## Review Results of Renewable Energy System Feasibility Study

After conducting the renewable energy system feasibility study your contractor will provide you with a report of the proposed system's energy generation potential and its cost effectiveness.

## Finalize the Scope of Work

Depending on your desired energy savings, goals and budget, you may choose all or only some of the Improvements suggested by the consultant to submit for Energize NY PACE financing. You, along with your consultant and your contractor, will make any desired revisions in an initial Scope of Work and prepare a proposed Scope of Work that will be included in the Application. The Program Administrator will review the proposed Scope of Work solely to ensure that the proposed Improvements meet the eligibility criteria of the Program.

## Step 3: Apply

### Required Documentation

The following materials are required as part of the application:

- **Proposed Scope of Work:** This report, generated by your selected energy auditor from your qualified energy audit and/or renewable energy system feasibility study details the energy Improvements that you wish to be considered for Energize NY PACE financing. The Program Administrator will verify that the desired Improvements are eligible for Energize NY PACE financing during the application phase.
- **Organizational Documents:** Assemble the organizational documents needed (e.g. Certificate of Incorporation, By-Laws, Certificate of Good Standing) for all Owners of record. See Appendix B for details.
- **Mortgage Documents:** You must submit the two most recent mortgage statements or other evidence that all mortgages or any other loans secured by the Property are current.
- **Appraisal:** A Property Appraisal is required to ensure that the requested financing amount does not exceed 35% of the Appraised Value of the Property and that the loan-to-value ratio on the Property does not exceed 90% of the Appraised Value of the Property. Full appraisals completed within the past year may serve to meet the required conditions above subject to EIC review. For more information on the requirements for an appraisal, including the selection of the appraiser, please review the Determining Value Section of this Handbook.
- **Lender Consent Form:** A Property Owner must obtain written consent from mortgagee(s) or other lenders who have provided credit to the Property Owner that is secured by the Property. Please use the Energize NY PACE Lender Consent Form (see Form 2). The Mortgagee will likely request to see a copy of the proposed Scope of Work, the proposed Energize NY Finance Agreement and the Energize NY PACE Application, copies of which are available from the Program Administrator.

Energize NY reserves the right to request additional information from Property Owners and to deny applications based on any information that may affect the likelihood that a Property Owner has the ability to pay its obligations under the Program..

### Complete the Application

Complete the customized Energize NY PACE Application form which was emailed to you from the Program Administrator at the time you received your Conditional Reservation Number. Review and complete the

Application in blue or black ink or type. The Application must be signed by all Property Owners of the Property. To apply for Energize NY PACE financing, applicants must remit payment to cover fees for a Title Search and, if required, an appraisal of the Property. The Application, together with all required documentation, may be submitted to the Program Administrator via mail, fax or secure file upload. Payment of fees may be (i) sent to our Program Administrator through the mail with the Application or (ii) made using our online payment system, which uses PayPal.

Upon receipt of the Application and fees, the Program Administrator will conduct a Title Search on your Property and attach it to the Application. The Program is required to conduct certain title and other background checks to determine clear title. The Title Search shall include last Property Owner search, lien search (including mortgages), judgment search, bankruptcy search and any outstanding unpaid property taxes or involuntary liens on the Property in excess of \$1000.

## **Agreement Documents**

Once your Energize NY PACE Application is approved, the Program Administrator will contact you to provide you with the following Agreement Documents:

- **Energize NY Finance Agreement** (see sample in Appendix C) The Energize NY Finance Agreement (the “Finance Agreement”) will describe the annual Financing Charge, the schedule of disbursements for either a multi-disbursement or single disbursement financing, interest rates, capitalized interest, and program fees. The Finance Agreement will be entered into as provided for in the New York State General Municipal Law, Article 5L, Section 119ee, ff, gg and the local laws of your municipality as a Participating Municipality in this Program.
- **Energize NY Finance Agreement Disclosure** (see sample in Appendix D) The Energize NY Finance Agreement Disclosure discusses the limits of responsibility of the Program with respect to Energize NY PACE and the Improvements for a given Property.
- **Energize NY Benefit Financing Program Declaration** (See sample in Appendix E) This Declaration will be added to the County Land Records to provide notice to and facilitate the ability of subsequent owners of the Property who will be utilizing and/or benefiting from the Improvements to pay any remaining amounts due under the Financing,

Upon receipt of your completed Application, all executed Agreement Documents and final approval from the Program Administrator, you will be issued a Notice to Proceed with a mutually agreed Completion Date as part of the Notice.

## **Step 4: Improve**

Upon receipt of your Notice to Proceed from the Program Administrator, your Contractor may begin the Improvements to your Property and you agree to have the installation of the Improvements completed in compliance with the terms of the Finance Agreement and the Program requirements no later than either the applicable Completion Date or the applicable final Milestone Completion Date in a Multi-Disbursement Financing (as more particularly described below). Failure to install the Improvements by the Completion Date or any Milestone Completion Date, as applicable, shall constitute a default under the Finance Agreement. You may request an extension and the Program Administrator, in its sole discretion, may grant or deny such request for an extension.

## **Multi Disbursement Financing**

If Improvements are to be completed in phases or milestones (a “Milestone”) and the customer wishes to receive disbursements during the construction for each Milestone, the Finance Agreement shall include a schedule, which shall set forth (i) the Milestones for completion of the Improvements with a completion date for each Milestone and (ii) the amount of funds to be disbursed upon each Milestone Completion Date. Upon each Milestone Completion Date, the Property Owner shall provide to EIC a Disbursement Request Form that will set forth the work completed and/or materials provided in accordance with the schedule. Upon completion of the Improvements, and prior to the disbursement of the final payment from the Project Account on the final Milestone Completion Date, the Property Owner shall provide EIC with a Certificate of Completion and/or equivalent proof of completion from an entity meeting the requirements of NYSERDA (as more particularly described below).

### **Submit a Certificate of Completion**

Once the Improvements have been completed, please provide the Program Administrator with a signed Certificate of Completion signed by both the Property Owner and Contractor or confirmation by NYSERDA or the local utility program certifying completion of the project in order to receive your financing in accordance with the terms of the Finance Agreement.

### **Remitting Disbursement Amount**

EIC will cause to have funds disbursed to you upon receipt of either an approved Certificate of Completion or a certified requisition specifying the Improvements were made and confirming that the Scope of Work or the Milestone, as applicable, has been completed. The Owner shall use the Disbursement Amount for the sole purpose of paying for the reasonable costs and expenses of the Improvements on the Property, and in connection therewith the Property Owner shall comply with all requirements set forth in the Finance Agreement.

You are solely and fully responsible for compensating the Contractor for all work performed. Neither the Energize NY Program, the EIC nor any Participating Municipality shall bear any responsibility or liability to make payments for the Improvements or Scope of Work performed.

### **Notice of Record**

**Upon signing the Finance Agreement, EIC shall record a declaration of the Energize NY Financing against the Property in the county land records.**

### **Enjoy Your Energy Savings**

Once funds are fully disbursed in connection with the terms of your Finance Agreement, you will note an annual “Energy Improvement” Financing Charge on your property tax bill in connection with the Energize NY PACE financing and you shall begin to repay the Energize NY PACE financing by paying this Financing Charge when you pay your property taxes. Upon completion of the Scope of Work, you can now enjoy the comfort and energy savings resulting from your energy efficiency Improvements and feel good knowing that your Improvements are benefitting your local community.

## Appendix A: Underwriting Criteria

### EIC Energize NY PACE Finance Underwriting Criteria and Other Requirements – PACE 2.0

#### The Property

- Property must be located in a municipality that is a Participating Municipality.
- Property taxes and assessments are current on the Property and have not been delinquent at any time in the past three (3) years;
- The Property Owner is current in payments on any existing mortgage
- The Property is qualified to participate in an approved NYSERDA or local utility qualified energy program or a pathway qualified through the NYSERDA Commercial PACE Guidance Document (see Attachment A)
- The Property is not subject to any involuntary liens or judgments in excess of \$1,000 in the
- aggregate;
- The Property is subject to the appropriate jurisdiction's (County, City, Town, Village)
- permitting and inspections and all other applicable Federal, State, and Local codes and
- regulations;
- All existing lien holders on the Property (including any mortgagees) consent to the PACE
- Financing Charge.
- The Participating Municipality may impose other restrictions not listed here.

#### The Property Owner

- The Property Owner is a corporation (both for-profit and not-for-profit), limited liability
- company, partnership, real estate investment trust (REIT), or an entity that owns real property other than a natural person or governmental entity, and pays the property tax on the property.
- The Property Owner must sign off on the Improvements being financed
- The Property Owner may not be in bankruptcy, has not filed for bankruptcy within the past
- seven years, and the Property may not constitute property subject to a bankruptcy proceeding;
- The Property Owner must be the legal owner of the property, and/or all the legal Owners
- of such Property agree to participate and
- The Property Owner, through the provision of a Title Search, must attest to and demonstrate that the Title on the Property is clear, it is current on any mortgage, has not defaulted on the mortgage and can legally enter into the Program.

#### The Improvements

The proposed Improvements must meet standards outlined in the NYSERDA Commercial PACE Guidance Document (see Attachment A) and will only qualify provided that:

- Energy efficiency improvements meet the cost-effectiveness criteria as outlined and referenced in Section V of the NYSERDA Commercial PACE Guidance Document (see Attachment A).
- Renewable energy systems meet the criteria as outlined and referenced in Section VI of the NYSERDA Commercial PACE Guidance Document (see Attachment A)
- The Improvements are permanently affixed to property.
- The proposed improvements are subjected to an energy audit and/or renewable energy system feasibility study as outlined and referenced in Section II and/or VII of the NYSERDA Commercial PACE Guidance Document (see Attachment A).

The Energize NY PACE financed amount shall be repaid over a term not to exceed the weighted average of the useful life of such systems and Improvements as determined by the qualified energy audit and/or renewable energy system feasibility study

- If the Improvements are to be owned by a third party or lessee (the Improvement Owner), as is the case with Power Purchase Agreements (PPAs) or leases for solar PV, and are not owned in whole by the Property Owner, the agreement(s) and/or contract(s) (e.g., PPA, lease) creating the third-party arrangement must include:
  - 1) Provisions confirming that:
    - a. the Improvements remain operational and cannot be removed through the term of the financing
    - b. the Property Owner's Cost Benefit Ratio from the Improvements as indicated in the qualified energy audit and/or renewable energy system feasibility study meets the cost-effectiveness criteria identified in Section V of the NYSERDA Commercial PACE Guidance Document (see Attachment A).
  - 2) In the case of a third-party arrangement between an Improvement Owner and a fourth party (eg: tenant), a separate agreement must be in place between the fourth party and the Property Owner guaranteeing payments sufficient to cover the annual tax charge obligation from the financing and create positive cash flow of greater than 1% to benefit the Property Owner through the term of the financing.
  - 3) Covenants that confirm the Improvement(s) and all agreement(s) and/or contract(s) creating a third-party arrangement are to be transferable to any new Property Owner, fourth party (eg: tenant) and/or Improvement Owner for the duration of the Financing Term.

### **Financing Restrictions**

- The total value of the Energize NY PACE financing added to all mortgages and other loans secured by the Property does not exceed 90% of the Appraised Value of the Property as determined by the Program Administrator in its sole discretion;
- The total value of the Energize NY PACE financing does not exceed 35% of the Appraised Value of the Property as determined by the Program Administrator in its sole discretion
- Energize NY PACE Financing is net of ALL non-tax-based upfront incentives
- Minimum Energize NY PACE Financing is \$25,000
- Such additional criteria that EIC may determine to be relevant to properly evaluate the risks associated with a particular financing, which criteria shall be approved by EIC's Board of Directors.
- The EIC Board reserves the right to reject any application for any reason in its sole discretion.

### **Required Documents**

The application for Energize NY PACE financing requires the submission of the following documents:

**Qualified Energy Audit / Renewable Energy System Feasibility Study:** Complete a qualified energy audit and/or a renewable energy system feasibility study of your building using a NYSERDA approved process as referenced in the NYSERDA Commercial PACE Guidance Document and/or through an approved NYSERDA or local utility qualified energy program.

**Proposed Scope of Work:** The Scope of Work, generated from your qualified energy audit or renewable energy system feasibility study, details the energy Improvements that you wish to be considered for Energize NY PACE

Financing. The Program Administrator will verify that the desired Improvements are eligible for Energize NY PACE Financing during the application phase.

**Organizational Documents:** Assemble the organizational documents needed (e.g. Certificate of Incorporation, By-Laws, and Certificate of Good Standing) for all Owners of record.

**Mortgage Documents:** You must submit the two most recent mortgage statements or other evidence that all mortgages or any other loans secured by the Property are current.

**Appraisal:** A Property Appraisal is required to ensure that the requested financing amount plus all other mortgages and loans secured by the Property does not exceed 90% of the Appraised Value of the Property. Full appraisals completed within the past year may serve to meet the required conditions above, subject to EIC review. Alternatively, EIC may provide a desktop appraisal of the Property based on the full market value on the local government tax rolls. If the loan-to-value ratio is less than 70% of the appraised value of the Property, this desktop appraisal will be sufficient. If the desktop appraisal of the applicant indicates a loan-to-value equal to or in excess of 70%, a full appraisal will be required. Appraisals must be prepared by a Member of the Appraisers Institute (MAI) approved appraiser. A NY State Certified General Appraiser (CGA) may be used if these variables are met:

1. in counties where no MAI are located we allow a CGA appraisals to be used instead of an MAI appraiser  
OR
2. when the reported value of the property is less than or equal to \$3,000,000, and
3. the loan-to-value is less than 70%.

If a CGA appraisal yields a value that is 70% or greater EIC reserves the right to require an MAI appraisal.

**Energize NY Finance Lender Consent Form:** A Property Owner must obtain written consent from Mortgagee(s) or other lenders who have provided credit secured by the Property. Please use the Energize NY Finance Lender Consent Form (see Form 2). The Mortgagee will likely request to see a copy of the proposed Scope of Work, the proposed Energize NY Finance Agreement and the Energize NY Finance Application, copies of which are available from the Program Administrator.

**Secretary's Certificate of Resolution:** The Property Owner is required to submit a Secretary's Certificate of Resolution from the Board of Directors of the Property Owner corporation, that the undersigned has the power and authority to enter into a PACE financing with EIC. The Program Administrator will attach the Secretary's Certificate of Resolution to your Application.

**Insurance:** Proof of property insurance that covers proposed improvements

**Third Party Agreements:** If the Improvements are to be owned by a third party or a lessee (the Improvement Owner), as is the case with Power Purchase Agreements (PPAs) for solar, other renewable energy generating equipment or energy efficiency HVAC equipment and are not owned in whole by the Property Owner, provide the agreement(s) and/or contract(s) (e.g., PPA, lease) creating the third-party arrangement.

**Sanctioned Countries:** The Program must receive a written and signed statement that indicates either that the Property Owner does not do business outside of the United States, or if the Owner does do business outside of the United States, it does not do business with Sanctioned Countries, as defined by the Office of Foreign Asset Control (OFAC). A list of Sanctioned Countries can be found at the following website:

<https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>



## Agreement Documents

**Energize NY Finance Agreement:** The Energize NY Finance Agreement describes the PACE Financing Charge, schedule of payments, interest rates, capitalized interest, professional fees, program fees and final Disbursement Amount in accordance with the New York State General Municipal Law, Article 5L, Section 119ee, ff, gg and the local laws of your municipality as a Participating Municipality.

**Energize NY Benefit Finance Disclosure Form:** The Energize NY Benefit Finance Disclosure Form discusses the limits of responsibility of the Program with respect to Energize NY Finance and the Improvements for a given Property.

**All Owners of the Property need to sign and return the Agreement Documents within ten (10) business days.**

**Certificate of Owner:** Owner certifies that they own the Benefitted Property, the construction of the project has either been completed or that owner will provide proof of completion before funds are fully disbursed, and that the signer is authorized to act on behalf of the Owner.

## Completion of the Improvements

**Certificate of Completion:** Both the Contractor and the Property Owner must sign a Certificate of Completion or equivalent document or receive confirmation by NYSERDA or the local utility program certifying completion of the project. Property owner will be responsible to submit verification of the improvement(s) final cost. These documents certify that the Scope of Work as presented with the Energize NY PACE Finance Application and Energize NY Finance Agreement was completed satisfactorily.

## Attachment A – NYSERDA Commercial PACE Guidance Document

<http://www.nyserda.ny.gov/cpace-guidelines>

## Appendix B: Finance Checklist

RESPONSIBLE PARTY	STEPS	NOTES	TIMELINE
Property Owner	<b>1. Pre-application</b>	Submit the pre-application here: <a href="http://commercial.energizeny.org/commercial-finance-application">http://commercial.energizeny.org/commercial-finance-application</a> .	-
Property Owner	<b>2. Conditional Reservation Number</b>	Energize NY (ENY) issues a conditional reservation number if pre-application responses indicate ENY criteria will be met. ENY informs the client about the estimated maximum eligible financing amount based on estimated property value.	2 business days
Property Owner	<b>3. Property Value</b>	ENY can accept various types of appraisals including the Full Market Value as determined by the local tax assessor, or a professional appraisal completed within the last year by a Member of the Appraisal Institute or a NY Certified General Appraiser. ENY will indicate what type of appraisal it will require in the Conditional Reservation Number response.	Client Dependent
Property Owner	<b>4. Title Search</b>	ENY will issue a payment request for the title search as directed on the conditional reservation.	7-10 Business Days
Property Owner	<b>5. Lender Consent</b>	If property has a mortgage, provide completed ENY Finance Lender Consent Form (written consent from mortgagee(s) or other lenders who have provided credit secured by the Property).	Client/Lender Dependent
Contractor	<b>6. Energy Assessment/Scope of Work</b>	<ul style="list-style-type: none"> <li>a. Client needs help finding an energy auditor/renewable energy contractor. <ul style="list-style-type: none"> <li>- <a href="#">See Energize NY Web Site</a></li> </ul> </li> <li>b. Energy auditor/renewable energy contractor provides ENY with the energy assessment/audit/feasibility study and the scope of work.</li> </ul>	Client / Contractor Dependent
Contractor	<b>7. Incentive Programs</b>	Apply to the appropriate incentive programs with NYSEDA or local utility to lower overall cost of the project. Submit copies of incentive applications and award notices to ENY.	Dependent on the incentive program
Property Owner	<b>8. Application</b>	<p>Complete the customized application obtained from the ENY Director of Underwriting. The documentation required:</p> <ul style="list-style-type: none"> <li>a. Submit ENY approved Energy Audit and/or Renewable Energy System Feasibility Study and Scope of Work.</li> <li>b. Provide organizational documents (NYS Department of State Certificate of Good Standing or, in the case of a Partnership, a copy of the Partnership Agreement; in the case of a Corporation, the Certificate of Incorporation and By-Laws; for a LLC, the Articles of Organization; for a Trust, a copy of the Trust Agreement; and a corporate resolution).</li> </ul>	Client Dependent

		<ul style="list-style-type: none"> <li>c. If property has a mortgage, provide two most recent mortgage statements</li> <li>d. Provide Appraisal – if required.</li> <li>e. Secretary’s Certificate of Resolution</li> <li>f. Sanctioned Country Attestation</li> <li>g. Third Party Agreements (in the case of 3<sup>rd</sup> Party Ownership)</li> <li>h. If solar – provide evidence that your property insurance will cover the system</li> </ul>	
Property Owner	<b>9. ENY Approval</b>	<p>Upon ENY approval, client receives from ENY:</p> <ul style="list-style-type: none"> <li>a. Finance agreement</li> <li>b. Client Summary Term Sheet</li> <li>c. Finance Disclosure Form</li> <li>d. Certificate of Owner</li> <li>e. Closing instructions</li> </ul>	15-20 business days
Property Owner	<b>10. Sign and return Finance Agreement documents</b>	Some documents need to be signed by the client in front of a notary. At signing, ENY confirms and locks the finance rate.	Client Dependent
Property Owner	<b>11. Notice to proceed</b>	Upon receipt of the Finance Agreement documents, ENY issues a Notice to Fund the Project Fund where funds may be disbursed to fund milestone payments and/or a completion payment.	1 business day
Property Owner	<b>12. Disbursements</b>	<p>Final disbursement occurs when the project has been certified as completed by NYSERDA, utility or both the Contractor and the Property Owner by signing a Certificate of Completion or equivalent document.</p> <p>Under certain circumstances construction financing may be available. Please consult with the Energize NY Program Administrator.</p>	Dependent on the completion date

## Appendix C: Energize NY Finance Agreement

### ENERGIZE NEW YORK BENEFIT FINANCE PROGRAM

#### ENERGIZE NY FINANCE AGREEMENT

This Finance Agreement (this “Agreement”) is made and entered into as of this \_\_\_ day of (MONTH), 201\_, by and between the ENERGY IMPROVEMENT CORPORATION, a Local Development Corporation formed under the laws of the State of New York (“EIC”), with an address at 2051 Baldwin Road, Suite 107, Yorktown Heights, NY 10598, acting on behalf of the \_\_\_\_\_ of \_\_\_\_\_, a New York municipal corporation (the “Municipality”); and \_\_\_\_\_, with an address at \_\_\_\_\_ (the “Owner”).

WHEREAS, EIC and its member municipalities, including the Municipality, have established the Energize New York Benefit Finance Program (“the Program”) as a sustainable energy financing program through which the member municipalities may levy charges against properties within the municipality, with the consent of the owners of the properties, to finance the installation in such properties of certain qualifying renewable energy systems and energy efficiency improvements, related energy audits and renewable energy system feasibility studies, all as authorized by Article 5-L of the New York State General Municipal Law.

WHEREAS, the Municipality has adopted a local law establishing the Program in the Municipality (the “Local Law”), and is a member municipality of EIC, and has authorized EIC to act on its behalf in implementing the Program.

WHEREAS, the Owner is the fee title owner of certain property described in Schedule 1, which is attached hereto and made a part hereof (the “Property”).

WHEREAS, the Owner has reviewed the Energize NY Benefit Finance Program Handbook available on EIC’s website (the “Program Handbook”) and submitted an Energize NY Benefit Application to participate in the Program, attached as Exhibit A hereto, to finance the acquisition, construction and/or installation of the renewable energy systems and/or energy efficiency improvements (the “Improvements”) on the Property and the EIC has approved such Application.

WHEREAS, EIC wishes to provide for the terms and conditions pursuant to which the Owner will participate in the Program and pay charges levied to finance the Improvements hereunder.

WHEREAS, this Agreement (including the Schedules and the Exhibits hereto), the Owner’s Energize NY Finance Pre-Application, the Owner’s Energize NY Finance Application (including the Required Documentation submitted therewith), and the Owner’s Energize NY Benefit Finance Disclosure Form, the Work Scope describing the Improvements (attached hereto as Exhibit B and made a part hereof), and all Exhibits thereto shall be collectively referred to herein as the “Agreement Documents”.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

**1. Financing Charge and Lien.** (a) The total amount of the financing charge shall be calculated as follows: the Acquisition Amount (as defined below) plus any capitalized interest, EIC’s administrative fees and any other amounts payable to EIC (the “Principal Financing Amount”), plus any interest thereon as provided in Section 4(c) hereof and any penalties which may accrue (collectively, the “Financing Charge”). The Financing Charge shall be paid in annual installments over the term of the financing (the “Annual Payment”). The Acquisition Amount,

the Annual Payment and the Principal Financing Amount shall be in the amounts set forth in Schedule 1 unless the same are adjusted in accordance with the provisions of this Agreement.

(b) Owner agrees that upon the execution of this Agreement by the parties and the subsequent disbursement of funds as set forth below on the Closing Date (as defined below), the Annual Payment shall, pursuant to this Agreement, Article 5-L of the General Municipal Law, the Local Law and other applicable laws, be included in the lien against the Property securing the payment of municipal taxes. EIC shall instruct the Municipality to add the Annual Payment to the real property taxes for the Property as a separately listed line item on each property tax bill for each year until the Financing Charge has been paid in full. The execution of this Agreement by the parties constitutes the agreement to levy the Annual Payment on the property tax bill constituting a lien on the Property without any further action required by the parties, except for the disbursement of the Acquisition Amount by EIC. The failure to pay property taxes in full, which includes the Annual Payment, (i) will result in penalties and interest accruing on the amounts due and owing and (ii) the Municipality shall have the right to foreclose the lien of the property taxes, including the Annual Payment, in the same manner as real estate taxes are enforced under the laws of the State of New York.

(c) A Declaration may be recorded against the Property to serve as notice of this Agreement and the obligations set forth herein.

**2. Term.** The term of this Agreement shall be from the date hereof until the earlier of: (i) the date on which the last Annual Payment is scheduled to be paid as set forth in Schedule 1; or (ii) the date on which the Financing Charge, including applicable penalties, costs, fees, and other charges, if any, has been paid in full. This Agreement is a covenant that shall run with the land and if the Property is sold or transferred to another person (including pursuant to tax sale foreclosure or otherwise) during the term of this Agreement, the obligation to pay the Annual Payment remains a charge against the Property.

**3. Acquisition Amount; Maximum Principal Financing Amount.** (a) Subject to the conditions set forth herein, EIC agrees to authorize U.S. Bank National Association (the “Trustee”), in its capacity as trustee under the indenture of trust relating to the financing of the Improvements (the “Indenture”), to disburse funds from the Project Account (as defined below) to the Owner in an amount not to exceed the cost of the Improvements less any non-tax state and/or federal rebates or incentives (the “Acquisition Amount”) as set forth below. Owner may choose to have the costs incurred in making an application to participate in the Program, including closing fees, title and appraisal fees, as well as the cost of a qualified energy audit and renewable energy feasibility study refunded to Owner as part of the Acquisition Amount; provided the Principal Financing Amount shall not exceed the Maximum Financing Amount set forth in the Client Summary Term Sheet attached hereto as Exhibit C.

**4. Collection of Annual Payment as Charge on Property Tax Bill; Benefit; Other Remedies.**

(a) Following the Closing Date, the Financing Charge shall be paid by the Owner through each Annual Payment in the number of annual installments and in the annual amounts set forth in Schedule 1. Each Annual Payment shall be collected by the Municipality (or such other municipal entity which collects taxes on behalf of the Municipality and pays same over to the Municipality) on the municipal property tax bill pertaining to the Property. The Annual Payment coming due in any tax year shall be payable in the same manner and at the same time and within the same installment as the municipal taxes on real property are payable in such tax year and shall become delinquent at the same times, shall bear the same penalties and interest after delinquency, and shall be subject to the same provisions for redemption and sale as the general municipal taxes on real property of the Municipality.

(b) Subsequent to the Closing Date, the Annual Payments shall be placed on the property tax bill for such Property for each year following the Closing Date and shall be included in the lien against the Property securing the payment of municipal taxes. There shall continue to be a lien upon the Property until the Annual Payment to which the lien relates, together with any penalties, interest and other assessments and charges, is paid in full. If the Closing Date occurs prior to the date by which EIC notifies the Municipality of outstanding financing agreements within the Municipality (typically 90-120 days before the record date for the payment of taxes) (the “EIC Notice Date”), the first Annual Payment shall be due with the municipal tax bill issued for the current

calendar year. If the Closing Date occurs after the EIC Notice Date, the first Annual Payment shall be due with the following year's municipal tax bill. The date on which the first and last Annual Payments are scheduled to be made are set forth on Schedule 1. The requirement for payment of each Annual Payment in full is absolute and unconditional. The amount of any Annual Payment, in whole or in part, is not subject to reduction, modification, amendment, off-set or discharge for any reason, including without limitation, the failure of the Improvements to generate any revenue or any cost saving represented to or guaranteed by any third party, orally or in writing.

(c) Subject to paragraph 4(d) below, the Financing Charge shall include interest on the Principal Financing Amount and any other unpaid amounts due and owing under this Agreement from the Closing Date at the rate of simple interest per annum as set forth in Schedule 1 (the "Interest Rate"). If a court of competent jurisdiction determines that the interest or other charges provided for herein in connection with the Financing Charge exceed the limits permitted by applicable law, then: (i) any such Financing Charge shall be reduced by the amount necessary to reduce the interest or charge to the permitted limit; and (ii) any sums already collected which exceed permitted limits will be refunded.

(d) The Financing Charge may not be prepaid or refinanced, in whole or in part, without the prior written consent of EIC, which consent may be withheld in the sole discretion of EIC. Any prepayment shall be pursuant to prepayment terms set forth in Schedule 1. Nothing in this paragraph (d) shall preclude EIC from exercising its remedies in accordance with Section 15 hereof upon the Default (as defined below) of the Owner hereunder.

## **5. Commencement and Completion of Improvements.**

(a) Consent and Authorization. Upon the execution of this Agreement, the Owner may proceed with the Improvements.

(b) Date of Completion of the Improvements. The Owner agrees to have the installation of the Improvements completed in compliance with the terms of this Agreement and the Program requirements no later than the Completion Date set forth in Schedule 1. If EIC should approve the Improvements to be completed and funded with phases or milestones (a "Milestone"), there shall be an addendum Schedule 1a which shall set forth the Milestones for completion of the improvements with a completion date for each Milestone (the "Milestone Completion Dates") and shall also allocate a portion of the Acquisition Amount to be paid upon each Milestone Completion Date (a "Multi-Disbursement Financing"). Unless the Program Administrator has agreed to either extend the Completion Date or Milestone Completion Dates, as applicable, in its sole and absolute discretion, the failure by the Owner to install the Improvements (or meet a Milestone) by the Completion Date or a Milestone Completion Date shall constitute a default under this Agreement. In the event of such a default, EIC shall be entitled, in its sole and absolute discretion, to seek any and all remedies provided in this Agreement and at law. EIC shall also have the option to extend the Completion Date or Milestone Completion Date at EIC's sole discretion. If EIC agrees to extend the Completion Date or a Milestone Completion Date, the Owner shall (i) pay a late completion fee and/or (ii) the Financing Charge shall be revised and computed at a higher Interest Rate that will be sufficient to reimburse EIC for any additional cost of funds. If the Financing Charge is revised, EIC and the Owner shall execute a new Schedule 1 and/or Schedule 1a, as applicable, to reflect the new Financing Charge, which new Schedule 1 and/or Schedule 1a, as applicable, shall become a part of this Agreement and replace in its entirety the original Schedule 1 and/or Schedule 1a, as applicable.

**6. Closing Date.** The Closing Date shall be the date when EIC deposits the Acquisition Amount into the Project Account (as defined below). On or before the Closing Date, EIC and the Owner shall execute this Agreement, which will provide for, among other things, a rate lock of the Interest Rate and an estimated Closing Date. Prior to the Closing Date for a Multi-Disbursement Financing, the Owner shall provide a detailed schedule of construction from its contractor(s) setting forth Milestones and related payments, which are subject to review and approval of EIC and, if required by the Program, the Owner shall deliver a certified copy of a Surety Bond,

Performance Bond and/or Payment Bond (A) executed by a surety company that is authorized to do business in the State of New York, having a financial strength rating by A.M. Best Company of “A-” or better, and otherwise satisfactory to the Trustee, (B) naming the Trustee as a co-obligee in a sum equal to the entire amount to become payable under the applicable contractor agreement(s) relating to the construction of the Improvements to be installed and completed on the Property pursuant to the Program and (C) conditioned on the completion of such Improvements and insuring completion of same. On the Closing Date, EIC will deposit the Acquisition Amount into a payment fund established under the Indenture (the “Project Account”), which will be held in trust with the Trustee as set forth in Schedule 1.

## **7. Conditions to Disbursement; Certificate of Completion**

(a) For a financing with a single payment to be made upon completion, it shall be a condition to payment of the Acquisition Amount from the Project Account to the Owner that Owner provides EIC with a certificate of completion (the “Certificate of Completion”) in the form prescribed by the New York State Energy Research Development Authority (“NYSERDA”) and/or equivalent proof of completion from an entity meeting the requirements of NYSERDA and/or the Certificate of Completion required by the Program, confirming that the Improvements have been completed and confirmation of the final cost of the Improvements.

(b) For a Multi-Disbursement Financing, disbursements shall be made from the Project Account to the Owner based upon the completion schedule set forth in Schedule 1a and the delivery of a Disbursement Request Form, which is attached to Schedule 1a as Exhibit 1 to Schedule 1a. Upon the completion of each Milestone, the Owner shall provide to EIC the Disbursement Request Form that will set forth the work completed and/or materials provided in accordance with Schedule 1a and the cost of same. EIC and/or the Trustee shall have the option of retaining a consultant to review and approve each Disbursement Request Form, with the cost of such consultant being borne by the Owner, which cost may be included in the Principal Financing Amount at the sole discretion of EIC. Upon completion of the Improvements, and prior to the disbursement of the final payment from the Project Account, Owner shall provide EIC with a Certificate of Completion and/or equivalent proof of completion from an entity meeting the requirements of NYSERDA as set forth above in Section 7(a).

**8. Use of Proceeds.** The Owner shall use the Acquisition Amount for the sole purpose of paying for the reasonable costs and expenses of the Improvements on the Property, and in connection therewith the Owner shall comply with all requirements set forth in the Agreement Documents.

**9. Representations and Warranties of the Owner.** For purposes of entering into this Agreement, EIC has relied upon the information provided by the Owner in the Agreement Documents, and the declarations, representations, warranties and covenants of the Owner set forth in the Agreement Documents. The other Agreement Documents are hereby incorporated into this Agreement as if fully set forth herein. The Owner covenants that each representation and warranty set forth herein is true, accurate and complete as of the date of this Agreement. By accepting the Acquisition Amount, the Owner shall be deemed to have reaffirmed all information and each and every representation and warranty made by the Owner in the Agreement Documents as of the Closing Date and on the date of each disbursement from the Project Account in the case of a Multi-Disbursement Financing.

The Owner hereby represents, warrants and covenants as follows:

(a) **Formation; Authority.** If the Owner is anything other than a natural person, it has complied with all laws and regulations concerning its organization, its existence and the transaction of its business, and is in good standing in each state in which it conducts its business. The Owner is the owner of the Property and is authorized to execute, deliver and perform its obligations under the Agreement Documents, and all other documents and instruments delivered by the Owner to EIC in connection herewith. The Agreement Documents have been duly

executed and delivered by the Owner and are valid and binding upon and enforceable against the Owner in accordance with their terms, and no consent or approval of any third party, which has not been previously obtained by the Owner is required for the Owner's execution thereof or the performance of its obligations contained therein. The individual executing the Agreement Documents on behalf of Owner has been and is duly authorized to bind Owner.

(b) Compliance with Law. Neither the Owner nor the Property is in violation of, and the terms and provisions of the Agreement Documents do not conflict with, any regulation or ordinance, any order of any court or governmental entity, any building restrictions or governmental requirements affecting the Owner or the Property, or all applicable laws, rules or regulations binding, in any jurisdiction, on the Owner including, without limitation, all anti-money laundering laws and regulations.

(c) No Violation. The terms and provisions of the Agreement Documents, the execution and delivery of the Agreement Documents by the Owner, and the performance by the Owner of its obligations contained in this Agreement, will not and do not conflict with, or result in a breach of or a default under, any of the terms or provisions of any other agreement, contract, covenant or security instrument by which the Owner or the Property is bound.

(d) Other Information. All reports, documents, instruments, information and forms of evidence which have been delivered to EIC in connection with the Agreement Documents are accurate, correct and complete.

(e) Litigation. There is no litigation, actions, proceedings, investigations or other disputes pending or threatened against the Owner or the Property which may impair the Owner's ability to fully perform its obligations hereunder, or which may impair the Municipality's ability to levy and collect the Financing Charge.

(f) No Event of Default. There is no event which is, or with notice or lapse of time or both would be, a Default under this Agreement.

(g) Special Benefit to the Property. The Improvements to the Property shall remain with the Property and confer a special benefit to the Property, the value of which is at least equal to the Acquisition Amount.

## **10. Covenants of the Owner.**

The Owner agrees and covenants to each of the following:

(a) Installation and Maintenance of Improvements. Upon execution of this Agreement, the Owner shall, or shall cause its contractor(s) to, promptly commence the Improvements and diligently continue to completion in a good and workmanlike manner and in accordance with sound construction and installation practices based in part or in whole on NYSEERDA's energy efficiency programs or other Qualified Energy Program. The Owner shall have the Improvements maintained in good condition and repair within the benefited property.

(b) Reports. Upon the request of EIC, Owner shall promptly deliver or cause to be promptly delivered to EIC a written status report of the Improvements, including the acquisition and installation thereof.

(c) Compliance with Law and Agreements. The Owner shall complete all Improvements, or cause the Improvements to be completed, in conformity with all applicable laws, including all applicable federal, state, and local occupation, safety and health, building codes, laws, rules, regulations, standards, and recorded instruments, covenants or agreements affecting the Property. The Owner shall comply with and keep in effect all permits, licenses, and approvals required to complete installation of the Improvements.



(d) Site Visits; Utility Records; Surveys. For purposes of examining the workmanship of the Improvements, observing the quality of the Improvements and otherwise evaluating the Improvements, the Owner grants EIC and the Municipality, their agents and representatives, the right to enter and visit the Property at any reasonable time, after giving reasonable notice to the Owner, for a period of two years from the completion of the Improvements. For purposes of examining savings derived from the Improvements and otherwise satisfying the requirements relating to the Program, the Owner shall execute an energy data release form allowing EIC and/or NYSEERDA to receive project level data from the Owner's electric and gas utilities or non-regulated fuel provider two-years pre- and two-years post-project implementation energy usage and other related information and also allow EIC and/or NYSEERDA, acting through its NY Green Bank Division, to: (i) examine and copy records and other documents of the Owner which relate to the Improvements, (ii) execute any consents, waivers or similar documents required by utility providers; and (iii) publish any data related to the Property in an aggregated and anonymized manner to report on the success of the Program. Neither EIC nor NYSEERDA shall share any information described in any energy data release form or the clauses (i) and (ii) of the preceding sentence with any other party except to the extent that it is required to do so pursuant to the requirements of the New York State Freedom of Information Law, the New York State Public Officer Law, Article 6, and regulations applicable thereto. The Owner also agrees to participate in any and all surveys conducted in connection with the Program. Neither EIC nor the Municipality has any obligation to visit the Property, observe any aspects of the Improvements or examine any records, and neither EIC nor the Municipality shall incur any obligation or liability by reason of not having made any such visit or examination.

(e) Protection Against Lien Claims. The Owner shall promptly pay or otherwise discharge any claims and liens for labor done and materials and services furnished to the Property in connection with the Improvements. The Owner shall have the right to contest in good faith any such claim or lien, provided that it does so diligently and without delay in completing the Improvements.

(f) Notices. The Owner shall promptly notify EIC in writing of any breach of any provision of this Agreement, or any event which, with notice or lapse of time or both, would constitute a breach or default hereunder.

## **11. Responsibilities of the Owner; Indemnification.**

(a) Financing by EIC; No Responsibility for Improvements. The Owner acknowledges that EIC and the Municipality have established the Program for the purpose of assisting the owners of property in the Municipality with the financing of the acquisition, construction, and installation of qualifying renewable energy systems and energy efficiency improvements. The Program is a financing program only. None of EIC, the Municipality, or any of their respective officers, directors, officials, agents, employees, attorneys and representatives, shall be responsible for the selection, management, installation or supervision of the Improvements, the Improvements' performance or the performance of any third parties retained by Owner to make the Improvements.

(b) Indemnification. The Owner shall indemnify, defend, protect, and hold harmless EIC, the Municipality, the Trustee, and each of their respective officers, directors, officials, employees, agents, attorneys and representatives (collectively, the "Indemnified Parties"), from and against all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorneys' fees) and any demands of any nature whatsoever related directly or indirectly to, or arising out of or in connection with, (i) the Agreement Documents, (ii) disbursement of the Acquisition Amount, (iii) the Improvements, (iv) any breach or default by the Owner of any of the Agreement Documents, (v) the levy and collection of any Annual Payment, (vi) the imposition of any lien securing an Annual Payment, (vii) any breach or failure of the Owner or its contractor(s) or agents to comply with all applicable laws, including all applicable federal, state and local occupation, safety and health laws, building code rules, regulations and standards, in connection with the acquisition, installation or completion of the Improvements, (viii) EIC or Trustee's payment of the Acquisition Amount to the Owner or (ix) the Owner's performance of its obligations

under the Agreement Documents (collectively, the “Liabilities”), regardless of whether such Liabilities shall accrue or are discovered before or after the Disbursement of funds.

(c) Survival of Indemnification. The Owner’s indemnity obligations described in Section 11(b) shall survive the disbursement of funds to the Owner, the payment of the Financing Charge in full, the transfer or sale of the Property by the Owner and the termination of this Agreement.

## **12. Special Conditions and Requirements.**

**A. Renewable Energy Power Purchase Agreements.** If the Improvements financed by the Owner under this Agreement consist of a renewable energy power system that will be owned by a party other than the Owner for the purposes of providing electrical power to the Property, the following provisions shall apply:

a. Owner shall comply with all provisions of the renewable energy services power purchase agreement pursuant to which the services are being provided until the expiration of the Term of this Agreement.

b. In addition to the Defaults under Section 14 of this Agreement, the following shall constitute a Default under this Agreement:

1. Any removal of the financed Improvements from the Property or the permanent disabling of such Improvements; or

2. The failure of any purchaser or transferee of the Property from the Owner to accept an assignment of the renewable energy services power purchase agreement from the Owner.

c. Upon the occurrence of any Default under paragraph b of this Section 12, the Owner shall be obligated to pay to EIC the sum of all Annual Payments remaining to be paid under this Agreement (the “Termination Payment”) no later than 15 days after the occurrence of such Event of Default. If the Owner fails to timely make such Termination Payment, the Owner shall remain obligated to pay the Annual Payments as provided in Section 4 hereof and the failure to make any such Annual Payment may be enforced in accordance with the provisions of Section 15 of this Agreement.

**13. Waiver of Claims.** For and in consideration of EIC’s execution and delivery of this Agreement, the Owner, for itself and for its successors-in-interest to the Property and for any one claiming by, through or under the Owner, hereby waives the right to recover from and fully and irrevocably releases the Indemnified Parties from any and all claims, obligations, liabilities, causes of action, or damages, including attorneys’ fees and court costs, that the Owner may now have or hereafter acquire against any of the Indemnified Parties arising out of or accruing from the Agreement Documents, and any actions taken hereunder.

The waivers and releases by the Owner contained in this Section 13 shall survive the disbursement of the Acquisition Amount, the payment of the Financing Charge in full, the transfer or sale of the Property by the Owner, and the termination of this Agreement.

**14. Further Assurances.** The Owner shall execute any further documents or instruments as may be required to carry out the terms of this Agreement, including documents and instruments in recordable form, as EIC or the Municipality shall from time to time find necessary or appropriate to effectuate the terms of this Agreement.

## **15. Events of Default.**

(a) Default. Subject to the further provisions of this Section 15, the failure of any of the Owner’s representations or warranties to be correct in all material respects, or the failure or delay by the Owner in abiding by any of its

covenants or agreements herein, or the failure by the Owner to install the Improvements by the Completion Date or a Milestone Completion Date, or to perform any of its obligations to complete the Improvements or other obligations to EIC under the terms or provisions of the Agreement Documents, shall constitute a default hereunder (“Default”).

(b) Notice of Default. Upon the occurrence of a Default, prior to exercising any remedies under the Agreement Documents, EIC or the Municipality shall give written notice of Default to the Owner. Delay in giving such notice shall not constitute a waiver of any Default. The Owner must commence to cure, correct, or remedy such failure or delay within five (5) days of receipt of written notice of Default and shall complete such cure, correction or remedy with reasonable diligence, but in any event, within the time set forth herein.

(c) Monetary Defaults. Any default in relation to the payment of property taxes in full (which include the Annual Payment), (i) will result in Municipal penalties and interest accruing on the amounts due and owing under this Agreement in an amount representing the proportionate share of the total penalties and interest accruing with respect to delinquent real property taxes and (ii) the Municipality shall have the right to foreclose the lien of the property taxes, including the Annual Payment, in the manner provided by applicable law. The Municipality and/or EIC shall also be entitled to recover from Owner all costs and expenses incurred in connection with pursuing its remedies hereunder.

(d) Cure Period for Non-Monetary Defaults. If a non-monetary Default occurs and such Default is reasonably capable of being cured within ten (10) days of receipt of notice of Default, the Owner shall have such period to effect a cure prior to exercise of remedies by EIC under this Agreement. If the Default is such that it is reasonably capable of being cured, but not within such ten (10) day period, and the Owner (i) initiates corrective action within such ten (10) day period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then EIC and/or the Municipality in its sole discretion may elect to grant the Owner such additional time as is reasonably necessary to cure the Default prior to exercise of any remedies by EIC and/or the Municipality. The foregoing notwithstanding: (i) in no event shall EIC and/or the Municipality be precluded from exercising any of their respective remedies if the Default is not cured within twenty (20) days after the first notice of Default is given; and (ii) the Completion Date or a Milestone Completion Date shall be extended only as provided in Section 5(b) hereof.

(e) Remedies Upon Non-Monetary Default. Upon a Default, and in the case of a Non-Monetary Default, expiration of the cure period as set forth above, EIC and/or the Municipality may exercise any or all of the rights and remedies available to it under applicable law, at equity, or as otherwise provided herein, including, but not limited to, the following:

(i) if the Acquisition Amount has not yet been disbursed to the Owner from the Project Account, EIC may exercise any remedies available under law to compel the Owner to take such actions as are necessary to cure such Default and, EIC, in its sole discretion, shall have no obligation to make any disbursement of the Acquisition Amount to the Owner. In the event that the Default is cured by the Owner and EIC chooses to proceed with disbursement of the Acquisition Amount to the Owner, any cost or expense incurred by EIC in connection with such Default (including any amounts payable by the Owner pursuant to Section 11 hereof) shall be added to the Financing Charge and shall be payable with interest thereon as part of the Annual Payment due and owing thereafter until the Financing Charge is paid in full. In the event that EIC, in its sole discretion, chooses to not disburse the Acquisition Amount to the Owner from the Project Account, the Owner shall be liable to EIC for all costs and expenses incurred by EIC in connection with this Agreement and the proposed financing of the Improvements, and EIC may take such actions as are available under applicable law to collect same;

(ii) if the Improvements are complete and the Acquisition Amount has been paid to the Owner in full, EIC may exercise any remedies available under applicable law to compel the Owner to take such actions as are necessary to cure such Default and any costs, expenses and fees incurred by EIC in connection

therewith (including any amounts payable by the Owner pursuant to Section 11 hereof) shall be added to the Financing Charge and shall be payable with interest thereon as part of the Annual Payment due and owing thereafter until the Financing Charge is paid in full;

(iii) if this Agreement provides for a Multi-Disbursement Financing and a portion of the Acquisition Amount has been paid to the Owner, EIC, in its sole discretion, shall have no obligation to make any further disbursement of the Acquisition Amount to the Owner. EIC may exercise any remedies available under applicable law apply including, but not limited to, applying the undisbursed portion of the Acquisition Amount (together with any other amounts on deposit in the applicable Project Account) (A) to complete construction of the Improvements, which completion of the construction will be at the risk and expense of the Owner, or (B) to (I) the payment of all costs and expenses incurred by EIC as a result of such Default (including any amounts payable by the Owner pursuant to Section 11 hereof) and, (II) after the payment of such costs and expenses, if there is any undisbursed portion of the Acquisition Amount still available, reduce the Principal Financing Amount that is payable under this Agreement together with any applicable prepayment penalty. If a Surety Bond, Performance Bond, or Payment Bond has been provided, EIC may also draw on such bond(s) in connection with the completion of the Improvements. EIC shall adjust the amount of the Financing Charge payable hereunder to reflect either any reduction resulting from its exercise of Section 15(3)(iii)(B) above or the addition of any costs, expenses and fees incurred by EIC in connection with this Default.

(f) Remedies Cumulative. Except as otherwise expressly stated in this Agreement or as otherwise provided by applicable law, the rights and remedies of EIC and the Municipality are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise by EIC or the Municipality, at the same time or different times, of any other rights or remedies for the same Default or any other Default. No failure or delay by EIC or the Municipality in asserting any of its rights and remedies as to any Default shall operate as a waiver of any Default or of any such rights or remedies, or deprive EIC or the Municipality of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. Except as otherwise provided in Section 12 of this Agreement, in no event shall EIC have the right to accelerate the amount of Annual Payments payable hereunder as a result of any Default or Payment Default.

(g) Force Majeure. Performance of the covenants and conditions imposed upon the Owner hereunder with respect to the commencement and completion of the Improvements shall be excused while and to the extent that, the Owner, through no fault or negligence of its own, is prevented from complying therewith by war, riots, strikes, lockouts, action of the elements, accidents, or acts of God beyond the reasonable control of the Owner; provided, however, that as soon as the cause or event preventing compliance is removed or ceases to exist the obligations shall be restored to full force and effect and the Owner shall immediately resume installation of the Improvements.

**16. Severability.** Each and every provision of this Agreement is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall, be valid and shall be enforced to the extent permitted by law.

**17. Notices.** All notices and demands shall be given in writing by first class mail, postage prepaid, or by personal delivery (by recognized courier service). Notices shall be considered given upon the earlier of (a) personal delivery or (b) three (3) business days following deposit in the United States mail, postage prepaid. Notices shall

be addressed as provided below for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given as demanded in that notice:

To EIC: 2051 Baldwin Rd., Suite 107  
Yorktown Heights, NY 10598  
Attention: Energize NY Benefit Finance Program Administrator

To the Owner: Address set forth in Schedule 1 hereto

Notwithstanding anything set forth above, after disbursement of any of the Acquisition Amount to the Owner and the placing of the Annual Payment on the tax rolls, all notices regarding the Annual Payment shall be sent only as provided by the laws of the State of New York.

**18. No Waiver.** No disbursement of the Acquisition Amount based upon inadequate or incorrect information shall constitute a waiver of the right of EIC to receive a refund thereof from the Owner. No disbursement of any portion of the Acquisition Amount shall constitute a waiver of any conditions to EIC's obligation to make further disbursements. No waiver by EIC of any failure by the Owner to comply with any provision of this Agreement shall in any way preclude EIC from thereafter declaring such failure by the Owner a Default hereunder or be deemed a waiver of any other or subsequent Default.

**19. Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the State of New York. Any legal action to be brought under this Agreement must be instituted in State or Federal Courts having jurisdiction located in the State New York.

**20. Entire Agreement; Amendment.** This Agreement, together with the other Agreement Documents, constitutes the entire agreement between the parties. Any other agreement related to the Improvements, and any amendment to this Agreement, must be signed in writing by both parties. If there is any inconsistency between the terms of this Agreement and any other document relating to the Application, Improvements or the Program, the terms of this Agreement shall prevail.

**21. Natural Persons.** If the Owner of the Property consists of more than one natural person, the obligations hereunder of all the owners shall be joint and several.

**22. Binding Effect.** This Agreement shall inure to the benefit of EIC and the Owner and shall be binding upon the Owner and any successors in title to the Owner or EIC and its respective successors and assigns.

**23. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

**24. Assignment by EIC.** It is understood, agreed and acknowledged that the EIC, as security for the performance of its obligations under the Indenture, may assign to the Trustee, among other things, certain of its rights, title and interests in and to this Agreement (including as it may be amended by any Agreement Amendments). The Owner consents to such assignment and agrees that the Trustee shall be entitled to enforce this Agreement directly against the Owner as a third party beneficiary hereof.

IN WITNESS WHEREOF, the Owner and EIC have entered into this Agreement as of the date and year first above written.

OWNER

Energy Improvement Corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Mark Thielking

Title: \_\_\_\_\_

Title: Executive Director

STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) ss:

On \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
COUNTY OF \_\_\_\_\_ ) ss:

On \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

Attached:

**Schedule 1-Summary of Terms**

**Schedule 1a – Milestone Summary**

**Exhibit A - Energize NY Finance Application**

**Exhibit B - Description of Improvements and Scope of Work**

**Exhibit C - Client Summary Term Sheet**



**Schedule 1**  
**SUMMARY OF TERMS for FINANCING AGREEMENT, dated \_\_\_\_\_**  
**By and Between \_\_\_\_\_ (OWNER) and EIC**

Name of Owner:

Property Address

Street Address:

County:

Town/Village/City:

Tax Map ID. No.:

Closing Date:

Disbursement Date (for Multi-Disbursement Financings see Schedule 1a):

Acquisition Amount (for Multi-Disbursement Financings see Schedule 1a):

Completion Date:

Principal Financing Amount:

Interest Calculation: Interest shall be computed on the basis of a \_\_\_\_\_ day year

Term of Financing:

Amount of each Annual Payment:

Due Date of first Annual Payment:

Due Date of final Annual Payment:

Number of Payments

Interest Rate:

Notice Address for Owner:

Attention:

**Agreed to by:**

\_\_\_\_\_ Owner

\_\_\_\_\_ EIC

**ATTACHED:**

**Exhibit A - Energize NY Finance Application**

**Exhibit B - Description of Improvements and Scope of Work**

**Exhibit C - Client Summary Term Sheet**

**Schedule 1a**  
**SUMMARY OF MILESTONES AND PAYMENTS FOR MULTI-DISBURSEMENT FINANCING**  
**dated \_\_\_\_\_**  
**By and Between \_\_\_\_\_ (OWNER) and EIC**

Description of Milestones with estimated portion of Acquisition Amount to be paid at the Milestone Completion Date

<u>Description of work</u>	<u>Milestone Completion Date</u>	<u>Payment Amount</u>
Milestone 1		
Milestone 2		
Milestone 3		

## EXHIBIT 1 TO SCHEDULE 1a

### DISBURSEMENT REQUEST FORM

Re: Energize NY Finance Agreement dated as of \_\_\_\_\_ (the “Agreement”) by and between ENERGY IMPROVEMENT CORPORATION (“EIC”) and \_\_\_\_\_, (the “Owner”) (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Agreement.)

In accordance with the terms of the above-referenced Agreement, the undersigned hereby requests EIC to authorize payment to the following persons the following amounts from the Project Account created under the Agreement for the following purposes:

Payee’s Name and Address	Invoice Number	Dollar Amount	Purpose
<Payee’s Name> <Payee Address 1> <Payee Address 2> <Payee Address 3>  <Payee Bank Name*> <Payee Bank ABA/Routing*> <Payee Bank Account No*> <Payee Account Name*>  <*Payee Address information is required. Payee Bank information only to be included for wire/EFT.>	<invoice list OR “see attached” with a spreadsheet>	< invoice amount>	<general description of Improvements>
<Payee’s Name> <Payee Address 1> <Payee Address 2> <Payee Address 3>  <Payee Bank Name*> <Payee Bank ABA/Routing*> <Payee Bank Account No*> <Payee Account Name*>  <*Payee Address information is required. Payee Bank information only to be included for wire/EFT.>	<invoice list OR “see attached” with a spreadsheet>	<invoice amount>	<general description of Improvements>

The Owner hereby represents, covenants and warrants for the benefit of EIC on the date hereof as follows:

- (i) (a) Each obligation specified in the table herein titled as “Disbursement Amounts” has been incurred by the owner in the stated amount, (b) the same is a proper charge against the Project Account for costs relating to the Improvements identified in the Agreement, and (c) has not been paid (or has been paid by the Owner and Owner requests reimbursement thereof).
- (ii) Each of the Improvements relating to an obligation specified in the table herein titled as “Disbursement Amounts” has been delivered, installed and accepted by the Owner. Attached hereto is the original invoice with respect to such obligation.
- (iii) Except for the lien held by \_\_\_\_\_, for which a Certificate of Lender Consent to the Proposed Contractual Charge on Benefitted Property was obtained prior to the Closing Date, the undersigned, as an authorized representative of Owner, has no notice of any vendor’s, mechanic’s or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.
- (iv) This requisition contains no item representing payment on account, or any retained percentages which the Owner is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to the Owner).
- (v) The Improvements are insured in accordance with the Agreement.
- (vi) No Default, and no event which with notice or lapse of time, or both, would become a Default, under the Agreement has occurred and is continuing at the date hereof.
- (vii) The disbursement shall occur before the expiration of the applicable Milestone Completion Date.
- (viii) The representations, warranties and covenants of the Owner set forth in the Agreement are true and correct as of the date hereof.

(ix) No material adverse change has occurred since the date of the execution and delivery of the Agreement.

Dated: \_\_\_\_\_

OWNER

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Disbursement of funds from the Project  
Account in accordance with the foregoing  
Disbursement Request Form hereby is authorized

ENERGY IMPROVEMENT CORPORATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



## EXHIBIT C

### Client Summary Term Sheet: \_\_\_\_\_

Applicant/Owner:  
Applicant/Owner Type:  
Applicant Street Address:  
City, State, Zip Code

**Property to be Financed:**  
Property Street Address  
City, State, Zip Code

Tax Lot/Parcel ID:

Property Appraised Value:

Maximum Financing Amount  
(Limited to 35% of Property Appraised Value)

*If Total Principal Financing Requested exceeds Maximum Financing Amount,  
Total Principal Financing Approved is limited to 35% of Appraised Property Value:*

**Financing Request by Property Owner:**

Construction Costs  
Fees Paid at Closing  
Application Fee  
Title Search  
Appraisal Fee  
Total Principal Financing Requested:

Cash Closing Cost to be paid by Applicant/Owner:  
(Difference between Principal Approved and Requested)

Total Principal Financing Approved  
Capitalized Interest

**Total Financing Amount**

Anticipated Funding Date

***Annual Percentage Rate***

***Simple Interest Rate***

*Annual Tax Payments*  
*First Tax Payment Due Date*  
*Last Tax Payment Due Date*

*Disbursement of Funds at Disbursement Date*  
*Payment to (from) Applicant/Owner*  
*Construction Costs*  
*EIC Application Fee*  
*Title Search Fee*  
*Closing Cost (Due from Property Owner)*  
*Appraisal Fee*  
*Total Net Payment to Applicant/Owner*  
*Finance Fee Paid to EIC*  
*Application Fee Reimbursed to EIC*  
*Capitalized Interest Held by Trustee Bank*  
**TOTAL FUNDS DISBURSED**

<b>Annual Percentage Rate</b>	<b>Finance Charge</b>	<b>Amount Financed</b>	<b>Total Payments</b>
The cost of your financing as a yearly rate: %	The dollar amount the financing will cost you. \$	The amount of financing provided to you or on your behalf. \$	The amount you will have paid when you have made all scheduled payments. \$
<b>Interest Rate (Simple Interest) and Payment Summary</b>			
Interest Rate (Simple Interest)		%	
Principal + Interest		\$	
<b>Total Estimated Annual Payment*</b>		<b>\$</b>	

## Appendix D: Finance Disclosure

### ENERGIZE NY FINANCE DISCLOSURE FORM

This document is to be provided to applicants to the Energize NY Benefit Financing Program.

By signing below, the applicant acknowledges that he/she has received this disclosure document, has read it and understands and agrees to the following:

1. The Energize NY Benefit Financing Program (the “Program”) is one of several options available for the financing of energy efficiency improvements or renewable energy systems.
2. EIC and the [ ] (“the Participating Municipality”) have established the Program solely for the purpose of assisting the owners of property in the [ ] with the financing of the acquisition, construction, and installation of qualifying renewable energy systems and energy efficiency improvements (the “Improvements”). The Program is a financing program only. None of EIC, the Participating Municipality, their officials, agents, employees, attorneys and representatives, the Program Administrator, or Program staff is responsible for selection, management or supervision of the Improvements or of the Improvements’ performance. **Neither the EIC nor the Participating Municipality will participate in the resolution of any dispute between you and your Contractor.**
3. EIC and the Participating Municipality have no liability whatsoever concerning (i) the quality or safety of any Improvements, including their fitness for any purpose, (ii) the estimated energy savings produced by or performance of the Improvements, (iii) the workmanship of any third parties, (iv) the installation or use of the Improvements including, but not limited to, any effect from indoor pollutants, or (iv) any other matter with respect to EIC or the Participating Municipality.
4. Applicant shall be responsible for paying all fees in connection with the financing as set forth in the Program Handbook and the Program’s Contract Documents.
5. The amount financed, together with the interest thereon, will be paid as a Charge on the Municipal Tax Bill for the property. The annual Charges will be a lien on the property in the same manner as real estate taxes. Therefore, the failure to make payments when due could result in Municipal enforcement of the lien, penalties, interest and potentially foreclosure of the property.
6. If applicant’s lender currently escrows for tax payments, the additional Charge due in conjunction with the Municipal Tax may cause the lender to increase the amount of escrow deposit and monthly escrow payments to cover this Charge.
7. If the property is sold prior to the end of the agreed-upon Charge period, the new owner will assume the obligation to pay the Charge in the same manner as a new owner would assume all other real estate taxes on the Property. Ownership of any improvements on the subject property will transfer to the new owner at the close of the real estate sale. No prepayments will be allowed of this benefit financing.
8. If the Improvements will be owned by a third party and/or not owned in whole or in part by the owner of the property receiving the benefit of the Improvements, the agreement(s) and/or contract(s) creating the third-party arrangement must include restrictive covenants confirming that the Improvements remain operational and generate the required savings and investment ratios and positive cash flows benefiting the property owner as indicated in the Energize NY Finance Application documents, the Renewable Energy System Feasibility Study and/or Energy Reduction Plan for the term of the financing. In addition, the agreements(s) and/or contract(s) creating the third-party arrangement must include restrictive covenants that allow and require the Improvements and the agreement(s) and/or contract(s) creating the third-party arrangement to be transferred to any new owner of the property for the duration of the financing term.
9. EIC and the Participating Municipality reserve the right to record a notice of Energize NY Benefit Finance in the [ ] Land Records



Giving materially false, misleading or inaccurate information or statements to the Participating Municipality or EIC, its employees and agents (or failing to provide the Participating Municipality or EIC with material information) in connection with an application is punishable by law. Material Representations include, but are not limited to, representations concerning the Improvement costs, Property ownership structure and financial information relating to the property and the Owner.

Receipt of this document acknowledged this [ ] day of [ ]

Applicant: [Corp] , [ Signatory], Authorized Representative

Signature:

Printed Name:

## Appendix E: Energize NY Program Declaration

### ENERGIZE NY BENEFIT FINANCING PROGRAM DECLARATION

THIS DECLARATION is made as of \_\_\_\_\_ by \_\_\_\_\_, whose address is \_\_\_\_\_, New York (“Owner” or “I”).

Pursuant to Article 5-L of the General Municipal Law of the State of New York, ENERGY IMPROVEMENT CORPORATION, a local development corporation duly formed under Section 1411 of the Not-for-Profit Corporation Law of the State of New York, with offices at 425 Cherry Street, Bedford Hills, NY 10507 (“EIC”), facilitates Property Assessed Clean Energy (PACE) financings for certain energy efficiency improvements or renewable energy systems, the costs of which are recovered through a charge on the property owner’s municipal real property tax bill (the “Program”).

Owner is the owner of real property known as \_\_\_\_\_, more fully described in Schedule A attached hereto, and known on the Tax Assessment Map of \_\_\_\_\_ as \_\_\_\_\_ (the “Property”).

EIC has facilitated a PACE financing for Owner and the Property in the principal amount of \_\_\_\_\_, plus interest and any penalties which may accrue (the “Financing”) as evidenced by a Finance Agreement, dated \_\_\_\_\_ (the “Finance Agreement”), for a term of \_\_\_\_\_. The Financing has been made pursuant to the Program to pay for energy efficiency improvement(s) and/or renewable energy system(s) designed to reduce energy costs (the “Improvements”) to the Property.

In order to further the purposes of the Program, including, but not limited to, providing notice to and facilitating the ability of subsequent owners of the Property who will be utilizing and/or benefiting from the Improvements to pay any remaining amounts due under the Financing, Owner has agreed to make this Declaration which shall be recorded in either the Office of the County Clerk or the Office of the Register, as applicable, in the county in which the Property is located.

NOW, THEREFORE, Owner, as the lawful owner of the Property with responsibility for paying the real property taxes thereon, agrees as follows:

1. Owner acknowledges and agrees that, except as otherwise provided in the Finance Agreement, the Financing shall be repaid through a charge on the Owner’s real property tax bill, and shall be due in the same manner and at the same time and in the same installments as the municipal taxes on real property are due within the Municipality.
2. Owner further acknowledges and agrees that, unless fully satisfied prior to sale or transfer of the Property, (a) the Financing shall survive any changes in ownership, tenancy, or property tax responsibility with respect to the Property; (b) until fully satisfied, the Financing shall constitute the obligation of the person or entity responsible for the real property taxes on the Property; and (c) any unpaid charge shall become delinquent at the same times, shall bear the same penalties and interest after delinquency, and shall be subject to the same liens and provisions for redemption and sale as the general municipal taxes on real property of the Municipality.

3. This Declaration is evidence of the Financing that shall run with the land and shall be binding upon Owner and its heirs, executors, administrators, successors, assigns and transferees until all amounts due under the Finance Agreement have been paid in full.
4. If Owner is a corporation, partnership, limited liability company, trust, unincorporated association, or other entity, such Owner hereby certifies that all necessary steps have been taken to authorize the execution and delivery of this Declaration and the performance of its obligations under this Declaration and that this Declaration constitutes its legal and valid obligation, enforceable against it in accordance with its terms.
5. This Declaration shall be governed by and construed in accordance with the law of State of New York.
6. Owner acknowledges and agrees that this Declaration does not constitute, nor will it be deemed to constitute, a mortgage and does not create, nor will it be deemed to create, a security interest or lien of any kind or character whatsoever on the Improvements or the Property or any interest in the Improvements or the Property.
7. This Declaration shall remain in effect until all amounts due under the Finance Agreement have been paid in full. At such time as all amounts due under the Finance Agreement have been paid in full, a declaration of repayment and full satisfaction will be recorded by EIC terminating this Declaration in its entirety. This Declaration may be terminated of record only by EIC.

*Signature Page Follows*

BY SIGNING BELOW, I agree to the promises, covenants, and agreements contained in this Declaration.

, Owner

By: \_\_\_\_\_

NOTE: This Declaration must be signed by each person or entity that is an owner of the Property whether or not such person or entity signed the Finance Agreement.

STATE OF NEW YORK )

COUNTY OF \_\_\_\_\_ ) ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**PROPERTY AFFECTED:**

Section

Block

Lot(s)

Town/County of

Property Address

**RECORD AND RETURN TO:**

Energy Improvement Corporation

425 Cherry Street

Bedford Hills, NY 10507

## Appendix F: Glossary

**Agreement Documents:** Energize NY Finance Agreement, together with the documents and instruments attached to or referenced in the Finance Agreement.

**Annual Payment:** Installment amounts due from the Owner and placed on the Property Tax Bill via the Charge.

**Appraised Value:** The estimated value of a Property as provided by either a computer analysis of recent transactions of similar properties in a given geographic area (or desktop appraisal) or a documented and manual search and analysis of all recent transactions of properties in a given geographic area (or full appraisal).

**BPI Accreditation:** The [Building Performance Institute \(BPI\)](#) is a national resource for building science technology which sets standards for assessing and improving the energy performance of 1-4 family homes and multifamily housing. The BPI accreditation process certifies that a particular contractor is trained to perform a HPwES Comprehensive Home Energy Assessment and Upgrade or a multifamily building assessment.

**Building Envelope:** The components of a building (roofs, walls, windows, doors, floors and foundation) that separate the conditioned space from unconditioned spaces, ambient conditions or outdoors.

**Certificate of Completion:** Both the Contractor and the Property Owner must sign a Certificate of Completion or equivalent document or receive confirmation by NYSERDA or the local utility program certifying completion of the project. These documents certify that the Scope of Work as presented with the Energize NY PACE Finance Application and Energize NY Finance Agreement was completed satisfactorily.

**Completion Date:** The date when all Improvements outlined in the Scope of Work are installed and referenced in a signed Certificate of Completion.

**Conditional Reservation Number:** Owners secure a Conditional Reservation Number by submitting the Energize NY Finance Pre-Application. The Conditional Reservation confirms pre-qualification to apply for Financing to finance the cost of your [Qualified Energy Assessment](#) and recommended energy efficiency Improvements.

**Consultant:** A professional services firm that provides a Qualified Energy Assessment. Depending upon the NYSERDA or New York State Qualified Energy program, this may be a NYSERDA-approved firm.

**Contractor:** The Contractor is the firm hired by the Owner to undertake the Improvements. Depending upon the NYSERDA or New York State Qualified Energy program, this may be a NYSERDA-approved firm.

**Default:** Subject to the further provisions of Section 13 of the Finance Agreement, the failure of any of the Owner's representations or warranties to be correct in all material respects, or the failure or delay by the Owner to perform any of its obligations under the terms or provisions of the Energize NY Finance Agreement and the Agreement Documents.

**Disbursement Amount:** The actual cost of Improvements less any state and/or federal rebates or incentives.

**Enabling Legislation:** Article 5-L of the NYS General Municipal [Law \(Sections 119 ee, ff, and gg\)](#) which authorizes the creation of Sustainable Energy Loan Programs such as the Energize New York Benefit Finance Program and allows a municipality to utilize Charges on the annual Property Tax Bill as the mechanism for ensuring the repayment of the Financing while providing an essential public good in furtherance of the policy of the State to achieve statewide energy efficiency and renewal energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, advance a clean energy economy through the deployment of renewable energy systems and energy efficiency measures throughout the State.

**Energize New York Benefit Finance Program (“Energize NY Finance,” “Energize NY Financing,” “The Program”):** A Property Assessed Clean Energy financing program where member municipalities may levy charges against benefited properties within the municipality with the consent of the Property Owners. The Energize New York Benefit Finance Program is available to finance the installation of certain qualifying renewable energy systems or energy efficiency improvements, as authorized by [Article 5-L](#) of the New York State General Municipal Law.

**Energize NY Finance Agreement:** The official document of the Energize New York Benefit Finance Program that confirms the terms and conditions of the Program.

**Energize NY Finance Agreement Disclosure:** A document that the EIC provides and is included in the Agreement Documents disclosing the limits of responsibility of the Program with respect to Energize New York Benefit Finance and the Improvements for a given Property.

**Energize NY Finance Application:** The Energize NY Finance Program’s official qualifying application for Property Owners who opt in to receive Energize NY Financing.

**Energize NY Finance Pre-Application:** The Program’s official pre-qualifying application form is required as a first step for Owner. After successful completion and acceptance of the Pre-Application, the Program Administrator will issue a Conditional Reservation to the Owner.

**Energy Improvement Corporation (EIC):** A New York not-for-profit, local development corporation chartered to facilitate the provision and financing of qualified energy efficiency Improvements and alternative or distributive energy generating facilities, as defined in Article 5-L of the NYS General Municipal [Law \(Sections 119-ee, ff, gg\)](#), for residents and/or businesses in Participating Municipalities in the State of New York. The lawful public or quasi-public objective of EIC is to promote the public good, and thereby lessen the burdens of government in the Participating Municipalities, and act in the public interest, which the EIC will achieve, by providing low-cost financing and community-based support for energy efficiency programs and alternative or distributed energy generating facilities for residents and businesses in the Participating Municipalities.

**Financing Charge (or “Charge”):** The total amount of Disbursement Amount, as defined in the Finance Agreement and interest as set in the Agreement less any payments.

**Financing Term (or “Term”):** The length of time from the date of Disbursement until the Financing Charge described herein, including all accrued interest thereon, applicable penalties, costs, fees, and other charges has been paid in full.

**Improvements:** Upgrades in energy efficiency or renewable energy to a Property that are eligible for inclusion as measures identified by a Qualified Energy Assessment. Such Improvements must be permanently affixed to the Property. Specific measures may include but are not limited to: (a) primary heating, cooling, potable or process water heating systems, energy management control systems, vertical transportation systems, energy efficient lighting, etc. (b) other energy conservation measures, (c) building envelope and shell upgrades that affect energy consumption and the energy load of the building like air-sealing, insulation and other weatherization measures, and (d) on-site renewable energy generation.

**Lender Consent Form:** Form that makes up part of the Application and that certifies that the existing mortgagor consents to the proposed Energize financing.

**Maximum Disbursement:** The maximum amount eligible for disbursement to an Owner for a given Property to be determined by the Program Administrator.

**New York State Energy Research and Development Authority (NYSERDA):** A public benefit corporation created in 1975 under Article 8, Title 9 of the [State Public Authorities Law](#). NYSERDA’s aim is to help New York meet its energy goals: reduce energy consumption, promote the use of renewable energy sources, and protect the environment.

**Notice to Proceed:** The Program’s confirmation that Financing is reserved for an Owner of an approved Property.

**Owner:** The fee title Owner of a certain Property.

**Participating Municipality:** A municipality that has joined the Energy Improvement Corporation through resolution and opting into the Energize New York Benefit Finance Program. All members of the Corporation shall be municipalities of the State of New York.

**Positive Cash Flow:** The amount of the savings and/or revenue generated from Improvements that exceeds the Annual Payment.

**Program Administrator:** Officer in charge of validating and preliminary approvals of applicants for Energize NY Financing.

**Program Handbook:** A manual describing the basic elements of the Energize NY Finance Program and including the Energize NY Finance Pre-Application, a sample Energize NY Finance Application and sample Energize NY Finance Agreement.

**Property Assessed Clean Energy (PACE):** A local government initiative that allows Property Owners to finance energy efficiency measures and renewable energy projects for their homes and commercial buildings. Interested Owners opt-in to receive financing that is paid back through a Charge collected on Properties municipal tax bill for up to 20 years. PACE spreads the cost of energy Improvements such as weather sealing, insulation upgrades, more efficient heating and cooling systems, solar installations and the like over the expected life of the measures and allows the repayment obligation to transfer automatically, like other Property tax Charges, to the next Owner if the Property is sold.

**Property:** Real Property that is designated on the tax assessment map of a Participating Municipality in the Energize NY Finance Program.

**Qualified Energy Assessment:** A NYSERDA-approved Energy Assessment, FlexTech Audit, or Feasibility Study that, along with a Cost-Benefit analysis forms the basis of the Scope of Work

**Qualified Energy Program:** A Qualified Energy Program is an energy efficiency or renewable energy program approved by the New York Public Service Commission, whether an investor owned utility, Long Island Power Authority, New York Power Authority, or New York State Energy Research Development Authority manages the program. An energy improvement project will only qualify for the Energize NY Finance Program if it is in full compliance with a Qualified Energy Program.

**Residential Property:** One (1) to four (4) family building used to house individuals and classified as residential on the Participating Municipality's assessment roll.

**Renewable Energy System:** An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the authority not including the combustion or pyrolysis of solid waste.

**Renewable Energy System Feasibility Study:** A written study, conducted by a contractor certified by the NYSERDA, or certified by a certifying entity approved by NYSERDA, for the purpose of determining the feasibility of installing a renewable energy system.

**Cost Benefit Ratio (CBR):** The CBR is calculated by dividing the total estimated benefits (including energy savings, societal benefits and other project related benefits) over the lifetime of the proposed project (present value) by the total eligible construction and other required costs (i.e audit costs) that are part of the financing.



**Scope of Work:** Total of Improvement measures identified by the Qualified Energy Assessment and accepted by the Property Owner that form the Scope of Work and total cost of the Improvements.

**Weighted Average Useful Life:** The weighted average useful life of a project or projects means: (1) The sum of the products of the cost of each Improvement and the useful life of the respective asset divided by (2) the total cost of all the assets comprising the project or projects.