

OMNIBUS AMENDMENT TO PROJECT DOCUMENTS
NY DELAWARE IV, LLC PROJECT

THIS OMNIBUS AMENDMENT TO PROJECT DOCUMENTS is made as of the 13th day of January, 2021 (“Omnibus Amendment”), by and between the COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having its principal offices at 548 Broadway, Monticello, New York 12701 (“Agency”) and NY DELAWARE IV, LLC, a New York limited liability company, having its principal offices located at 555 De Haro Street, Suite 3000, San Francisco, California 94107 (“Company”).

WHEREAS, the Agency was created by Chapter 560 of the Laws of 1970 of the State of New York, as amended, pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the “Act”) as a body corporate and politic and as a public benefit corporation of the State of New York (“State”); and

WHEREAS, the Project (as hereinafter defined) was originally designed to be constructed on a portion of 76.56± acres of real estate located at 93 Villa Roma Road, Town of Delaware (“Town”), County of Sullivan (“County”), State and identified on the Town tax map, at the time of the Application (as herein defined), as Section 21, Block 1, Lot 28 (“Land”); and

WHEREAS, on or about March 7, 2019, the Company presented an application (“Application”) to the Agency, requesting the Agency’s assistance with respect to a certain project consisting of the construction of an approximately 2MW solar photovoltaic electricity generating facility to be interconnected to the New York State Electric and Gas (“NYSEG”) electrical grid (“Project”). The Project is comprised of (a) racking to mount the solar modules; (b) solar modules; (c) inverters and transformers mounted on a concrete inverter pad and (d) assorted electrical components and wiring (“Solar Array”); and

WHEREAS, on or about June 10, 2019, the Agency and the Company entered into the following documents:

- (i) Agent and Project Agreement (“Agent Agreement”);
- (ii) Bill of Sale to Agency (“Bill of Sale to Agency”);
- (iii) Bill of Sale to Company (“Bill of Sale to Company” together with Bill of Sale to Agency, “Bills of Sale”);
- (iv) Lease to Agency and memorandum thereto (collectively, “IDA Lease Agreement”);
- (v) Leaseback to Company and memorandum thereto (collectively, “IDA Leaseback Agreement”); and
- (vi) Payment in Lieu of Tax Agreement (“PILOT Agreement”).

The documents listed in (i) through (vi) listed above are collectively referred to as the “IDA Project Documents”; and

WHEREAS, the Land was and is owned by Delaware River Solar Real Estate, LLC (“DRSRE”) and was leased to the Company pursuant to a Lease Agreement dated as of June 10, 2019 (“Ground Lease”); and

WHEREAS, the Ground Lease was amended by that certain First Amendment to Lease Agreement entered into as of September 12, 2019 (“First Amendment to Lease”); and

WHEREAS, contemporaneously with execution of the First Amendment to Lease, DRSRE and the Company executed an Amended Memorandum of Lease, which was recorded in the Office of the Clerk of Sullivan County on October 15, 2019 as Instrument No. 2019-7255; and

WHEREAS, the original description of the Land in the Ground Lease was based upon a subdivision sketch plan (“Sketch Plan”) containing preliminary boundary locations; and

WHEREAS, a subdivision application was submitted by Packer Associates, Inc. to the Town of Delaware Planning Board which resulted in the approval of a Subdivision Map entitled “Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC”, dated July 9, 2019, last revised on August 21, 2019, and following approval, was recorded in the Sullivan County Clerk’s Office on August 27, 2019 in Book 15 at Page 185 and as Instrument No. 2019-57, pursuant to which the size of the Land varied slightly from the acreage computed based on the Sketch Plan; and

WHEREAS, to evidence the slight acreage variation, DRSRE and the Company entered into a Second Amendment to Lease Agreement, dated as of February 26, 2020 (“Second Amendment to Lease”), which further amended the Ground Lease and pursuant to which DRSRE now leases to the Company the 14.96 acre parcel more particularly described on “Exhibit A” attached hereto and made a part hereof; and

WHEREAS, contemporaneously with execution of the Second Amendment to Lease, DRSRE and the Company executed an Amended Memorandum of Lease on February 26, 2020, which was recorded in the Office of the Clerk of Sullivan County on March 6, 2020 as Instrument No. 2020-1802; and

WHEREAS, the Agency and the Company wish to amend the IDA Project Documents to replace the description of the Land based on the Sketch Plan of the Land with the actual lot description as set forth in the Second Amendment to Lease; and

WHEREAS, the amount of the sales tax exemption listed in Paragraph 5(e) of the Agent Agreement was incorrectly noted.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged it is mutually agreed as follows:

1. Amendment of IDA Project Documents. The IDA Project Documents are hereby amended to delete the Sketch Plan legal description attached to the Bills of Sale, IDA Lease Agreement and IDA Leaseback Agreement and to incorporate in its place and stead the description of the 14.96-acre parcel attached hereto as Schedule A.

2. Project Description. The project description in the IDA Project Documents is hereby deleted and the following inserted in its place and stead:

“construction of an approximately 2MW solar photovoltaic electricity generating facility to be interconnected to the New York State Electric and Gas (“NYSEG”) electrical grid (“Project”). The Project is comprised of (a) racking to mount the solar modules; (b) solar modules; (c) inverters and transformers mounted on a concrete inverter pad; and (d) assorted electrical components and wiring (“Solar Array”). The Solar Array has been constructed on the 14.96 acres of real estate located at Villa Roma Road, Town of Delaware (“Town”), County of Sullivan (“County”), State and identified on the Town tax map as Section 21, Block 1, Lot 28.4 (“Land”).”

3. Recording Memos. Contemporaneously herewith, the Company and the Agency shall execute and thereafter record in the Office of the Sullivan County Clerk a First Amended Memorandum of Lease to Agency and a First Amended Memorandum of Leaseback to Company to set forth the legal description of the Land as set forth on Schedule A.

4. Amendment of Agent Agreement. Paragraph 5(e) of the Agent Agreement is hereby deleted in its entirety and the following inserted in its place and stead:

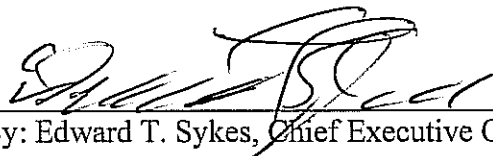
“(e) The Company further (i) covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in the amount up to \$875,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$70,000, (ii) confirms that the mortgage recording tax exemption amount shall not exceed \$30,000. ”

5. Integration. Except as herein amended, all other terms and conditions of the IDA Project Documents shall remain in full force and effect

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IN WITNESS WHEREOF, the parties hereto have executed this Omnibus Amendment effective as of the 13th day of January, 2021.

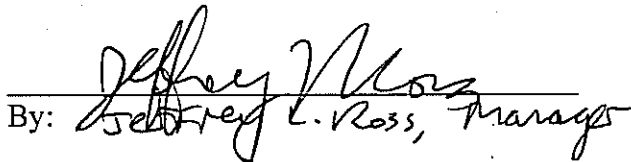
COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY



By: Edward T. Sykes, Chief Executive Officer

NY DELAWARE IV, LLC

By: Generate C&I Warehouse, LLC,
its Sole Member



By: Jeffrey L. Ross, Manager