

AMENDED AND RESTATED
PAYMENT IN LIEU OF TAXATION AGREEMENT

THIS AMENDED AND RESTATED PAYMENT IN LIEU OF TAXATION AGREEMENT ("Agreement"), made as of the 15th day of September, 2020 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 V, LLC, a New York limited company, having its principal offices located at 140 East 45th Street, Suite 32B-1, New York, New York 10017 ("Company").

RECITALS

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York ("Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York ("State"); and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve its standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities at such rentals and on such other terms and conditions as it deems advisable; and

WHEREAS, the Agency was created pursuant to and in connection with the provisions of the Enabling Act, Chapter 560 of the Laws of 1970 of the State (collectively, referred to as the "Act") and is empowered under the Act to undertake the providing, financing and leasing of the facility described below; 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) 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 Ground Lease Agreement entered into as of September 11, 2019 ("First Amendment to Ground Lease"); and

WHEREAS, contemporaneously with execution of the First Amendment to Ground Lease, DRSRE and the Company executed a Memorandum of Lease, on September 11, 2019, which was recorded in the Office of the Clerk of Sullivan County on September 17, 2019 as Instrument No. 2019-6538; and

WHEREAS, the original Ground Lease description 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, DRSRE and the Company entered into an Electric Transmission and Access Easement Agreement, dated as of September 12, 2019, granting a non-exclusive access agreement over a right of way twenty-two (22) feet in width, for the purpose of ingress and egress from Villa Roma Road, which was recorded in the Office of the Clerk of Sullivan County on February 19, 2020 as Instrument No. 2020-1320; and

WHEREAS, to evidence the slight acreage variation, DRSRE and the Company entered into a Second Amendment to Ground Lease Agreement, dated as of February 28, 2020 (“Second Amendment to Ground Lease”), which further amended the Ground Lease and pursuant to which DRSRE now leases to the Company the 14.00 acre parcel more particularly described on “Schedule A” attached hereto and made a part hereof; and

WHEREAS, contemporaneously with execution of the Second Amendment to Ground Lease, DRSRE and the Company executed an Amended Memorandum of Lease, on February 28, 2020, which was recorded in the Office of the Clerk of Sullivan County on March 6, 2020 as Instrument No. 2020-1763; and

WHEREAS, the Agency and the Company deemed it necessary and proper to execute and deliver a Payment in Lieu of Taxation Agreement (“PILOT Agreement”) making provision for payments in lieu of taxes by the Company for the benefit of the County, Town and School (“Taxing Jurisdictions”), which PILOT Agreement was dated June 10, 2019; and

WHEREAS, the PILOT Agreement was previously amended by that certain Omnibus Amendment to Project Documents, made as of the 14th day of December, 2020, whereby the IDA Project Documents were amended so that the Land description in the IDA Project Documents was amended to be the 14.00-acre parcel which was leased by DRSRE to the Company pursuant to the Second Amendment to Ground Lease; and

WHEREAS, by Resolution No. 45-20 adopted on September 14, 2020, the Agency amended its Community Distributed Generation Uniform Tax Exemption Policy, eliminating the variable formula PILOT payment calculation method. The resolution also affords all previously approved projects the opportunity to amend the project’s PILOT Agreements, eliminating the variable formula PILOT payment calculation method; and

WHEREAS, the Agency and Company wish to amend and restate the PILOT Agreement to eliminate the variable formula PILOT Payment calculation method and to update the Notice addresses of the Company; and

WHEREAS, all agreements of the Agency and the Company relating to future payments in lieu of taxes shall be governed by this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual terms, conditions, limitations and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed as follows:

1. Exemption From General Ad Valorem Property Taxes.

(a) RPTL § 487 Exemption Period.

Pursuant to Real Property Tax Law § 487, the Solar Array is exempt from general and ad valorem property taxes for a period of fifteen (15) years from the date of system completion.

(b) On or before the taxable status day governing the first year following the fifteen (15) year RPTL § 487 exemption period and on or before each taxable status day thereafter during the term, the Agency shall complete and file a New York State Form RP-412-a Application For Real Property Tax Exemption ("Exemption Application") under Section 412-a of the New York State Real Property Tax Law ("RPTL") and Section 874 of the Act. Upon acceptance of the Exemption Application, the Land shall be exempt from and the Solar Array shall continue to be exempt from real estate taxes commencing with the July 1 School year and the January 1 County and Town tax year next following the period of the Exemption Application. The Company shall provide the Agency the information necessary for the completion and filing of the Exemption Application not later than the January 1 prior to each applicable taxable status day. Notwithstanding anything contained herein or in the Lease Agreement and the Leaseback Agreement to the contrary, in the event the Exemption Application is denied for any reason, the Company shall pay (and hereby agrees to pay, subject to the Company's right to challenge the underlying assessments on the Land pursuant to ¶5 hereof) all real estate taxes levied upon the Land as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application. The Company hereby waives any claim or cause of action against the Agency and releases the Agency from any liability to the Company, arising from the denial of the Exemption Application except to the extent that such denial results solely from the failure of the Agency to timely file the Exemption Application.

(c) Notwithstanding subparagraph a and b above, in the event that there is a change in applicable law after the effective date of this Agreement such that the Company is no longer entitled to an exemption for the Solar Array under RPTL 487 at the same level as provided under law in effect as of the effective date, upon Company's request the Agency shall file an Exemption Application under 412-a of the RPTL and 874 of the Act on or before the next applicable taxable status date and on or before each taxable status date thereafter during the term.

2. Agreement to Make Payments in Lieu of Taxes.

(a) RPTL §487 Exemption Period. During the period the Solar Array is exempt from general ad valorem real property taxes under RPTL §487 (years 1 to 15), the Company agrees to pay to the Agency at 548 Broadway, Monticello, New York 12701, or at such other address as shall be designated from time to time by the Agency (the "Agency's Offices"), payments in lieu of tax (each a "PILOT Payment"):

- (i) An amount equal to Eight Thousand and 00/100 (\$8,000.00) Dollars per name plate AC MW, which for this 2MW AC name plate Project is Sixteen Thousand and 00/100 (\$16,000.00) Dollars;
 - (ii) For only the fifteen (15) year period during which time the Project is owned by the Company or an Affiliate of the Company is exempt from general ad valorem real property taxes under Real Property Tax Law §487, the Company shall not and shall cause any of its Affiliates (as such term is defined below) not to enter into any agreement to make payments in lieu of tax, or agree to be subject to general ad valorem real property taxes payments, in each case in amounts greater than the PILOT Payments provided for herein for any other solar photovoltaic electricity generating facility located in Sullivan County and interconnected to the NYSEG electrical grid. For the purposes of this Section 2(a)(ii), the term "Affiliate" shall mean any entity which, directly or indirectly, is in control of, is controlled by, or is under common control with, the Company.
- (b) RPTL §412-a Exemption Period. During any period the Land and Solar Array are exempt from taxation under §412-a of the RPTL and §874 of the Act, the Company agrees to pay the Agency at the Agency's Offices a PILOT payment equal to what the real estate taxes on the unimproved Land (without giving effect to any increase to the assessed value associated with the Project) would have been if the Agency was not involved with the Project PLUS Sixteen Thousand and 00/100 (\$16,000.00) Dollars.
- (c) The chart which follows sets forth the anticipated years of the overall twenty (20) year period for PILOT Payments under the Agency's Community Distributed Generation Tax Abatement Policy; the date that a PILOT Payment is due; and the appropriate tax periods to which the PILOT Payment applies. These periods are based on the expectation that the Solar Array will be placed in service between March 1, 2019 and March 1, 2020. The "Years" set forth in the first column of the chart shall be adjusted so Year 1 is the February 1 following the date the Solar Array is placed in service.

Year	PILOT Payment Due Date	School Fiscal Year Beginning	County and Town
1	February 1, 2021	July 1, 2020	January 1, 2021
2	February 1, 2022	July 1, 2021	January 1, 2022
3	February 1, 2023	July 1, 2022	January 1, 2023
4	February 1, 2024	July 1, 2023	January 1, 2024

5	February 1, 2025	July 1, 2024	January 1, 2025
6	February 1, 2026	July 1, 2025	January 1, 2026
7	February 1, 2027	July 1, 2026	January 1, 2027
8	February 1, 2028	July 1, 2027	January 1, 2028
9	February 1, 2029	July 1, 2028	January 1, 2029
10	February 1, 2030	July 1, 2029	January 1, 2030
11	February 1, 2031	July 1, 2030	January 1, 2031
12	February 1, 2032	July 1, 2031	January 1, 2032
13	February 1, 2033	July 1, 2032	January 1, 2033
14	February 1, 2034	July 1, 2033	January 1, 2034
15	February 1, 2035	July 1, 2034	January 1, 2035
16	February 1, 2036	July 1, 2035	January 1, 2036
17	February 1, 2037	July 1, 2036	January 1, 2037
18	February 1, 2038	July 1, 2037	January 1, 2038
19	February 1, 2039	July 1, 2038	January 1, 2039
20	February 1, 2040	July 1, 2039	January 1, 2040

- (d) Other Agreements Relating to PILOT Payments. The Agency shall remit to the Taxing Jurisdictions PILOT Payments received hereunder within thirty (30) days of receipt and shall allocate the PILOT Payments among the Taxing Jurisdictions in the same proportion as normal real estate taxes would have been allocated but for the Agency's involvement.

The Company shall not be entitled to receive from the Agency or the Taxing Jurisdictions real property tax benefits relative to the Project for more than the period provided in this Agreement. The Company therefore agrees that it will not seek from the Agency or the Taxing Jurisdictions any such real property tax exemption for the Project which could provide benefits for more than the periods provided for in this Agreement.

3. Additional Payments. In addition to the PILOT Payments to be made by the Company to the Agency pursuant to this Agreement, the Company shall pay to the Agency all special assessments, special ad valorem levies, and any other charges for which the Agency shall be liable by reason of its interest in the Project and for which it is not wholly exempt from taxation, to the extent the Company has not paid such levies directly to the applicable taxing authorities. Such payments shall be made within ten (10) business days after the date upon which a bill shall be rendered by the Agency to the Company. Such charges shall be paid

without adjustment, exemption or other deduction, subject, in each case, however, to the Company's right to obtain exemption and credits, if any, which would be afforded a private owner of the Project. The Company hereby authorizes the Agency to request that any Taxing Jurisdiction bill the Company directly for all special assessments, special ad valorem levies and any other charges for which the Agency shall be liable by reason of its interest in the Project and for which it is not wholly exempt from taxation. In the event the Company is directly billed for such charges, the Company shall pay such charges within the time in which such statement or bill may be paid without interest or penalty.

4. Representations and Warranties.

- (a) The Company is duly authorized under all applicable provisions of law to enter into and perform this Agreement. The Company's entry into and performance of this Agreement will not violate any applicable provisions of law and will not result in a breach of or a default under any agreement or instrument to which the Company is a party and will not result in the creation of any lien, charge or encumbrance upon any of the assets of the Company under any such agreement or instrument.
- (b) The Company is not a party to any agreement or subject to any restriction (including without limitation any agreement among or between its shareholders or members) that materially and adversely affects its business assets or financial condition.
- (c) When executed, this Agreement will be a valid and binding obligation of the Company.

5. The Company's Right to Challenge. Except as otherwise provided in this Agreement, the Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company held exclusive rights in the Project.

Except as otherwise provided in this Agreement, the Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company held exclusive rights in the Project, with respect to the assessed value of the Project by the Town and shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment.

6. Transfer of Project to the Company. In the event that the Project is transferred from the Agency to the Company, and the Company is ineligible for a continued tax exemption under some other tax incentive program, or any available exemptions result in a payment to the Taxing Jurisdictions in excess of the payment computed pursuant to this Agreement, the Company shall pay, no later than the next tax lien date (plus any applicable grace

period), to each of the Taxing Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Project if the Project had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemptions provided for herein.

7. Involuntary Termination of Agreement. To the extent the Project is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the Company's obligations hereunder shall, to such extent, be amended or terminated, at the Company's option.
8. Event of Default. During the term of this Agreement, the following shall be an event of default:
 - (a) The failure to make PILOT Payments within the time allowed for payment, *TIME BEING OF THE ESSENCE*;
 - (b) The failure of the Company to pay the amounts required to be paid pursuant to Sections 3.3 or 3.7 of the Leaseback Agreement and such failure shall have continued for a period of ten (10) days after the Agency gives written notice of such failure to the Company;
 - (c) The appointment by any court of a receiver or trustee to take possession of all, or substantially all, of the assets of the Company which said appointment shall not have been discharged within a period of ninety (90) days after the filing of same;
 - (d) The adjudication of the Company as a bankrupt and the failure to vacate, set aside or terminate such adjudications within ninety (90) days thereafter;
 - (e) The making by the Company of an assignment for the benefit of creditors;
 - (f) The termination of the Leaseback Agreement pursuant to Section 4.2 thereof due to the Company's election not to repair or replace the Project;
 - (g) The attachment, execution or other seizure of all or substantially all of the assets of the Company, which such attachment, execution or other seizure is not discharged within a period of sixty (60) days after the date of levy; or
 - (h) The failure, refusal or neglect of the Company to perform, keep or observe any of the terms, covenants and agreements herein contained in the part of the Company to be performed, kept or observed.
9. Remedies on Default in Payment; Termination. Upon the happening of an event of default as defined in ¶8(a) hereof, the Agency may immediately terminate this Agreement without prejudice or limitation as to all other rights or remedies herein and/or under law or in equity. Such termination may be accomplished by terminating the Agency's leasehold interest in

the Land and the Project under the Lease Agreement, as determined by the Agency and the recording of Memorandums of Termination of Lease Agreement and Leaseback Agreement (“Termination Memorandums”) in the County Clerk's Office shall be deemed to be delivery thereof. The Company hereby appoints the Executive Director and Chief Executive Officer, each acting individually, as its attorneys-in-fact for the limited purpose of signing any forms that must necessarily accompany the Termination Memorandums in order for the Termination Memorandums to be recorded. The Company acknowledges that the foregoing appointment is coupled with an interest and is irrevocable. Notwithstanding anything in this paragraph to the contrary, the Company shall be entitled to written notice from the Agency of its intention to terminate under the terms and conditions of 8(a) and the Company shall have seven (7) days to cure such default.

10. Remedies on Other Defaults; Termination.

(a) Remedies. Upon the happening of any event of default as defined in ¶8(b - h) hereof, after thirty (30) days written notice to the Company specifying the event of default, if the default shall not be remedied within the applicable period specified above, the Agency, at its option, may take any action hereinafter set forth and all such remedies shall be cumulative and not exclusive:

- (i) Recover damages for the breach of any covenant or condition hereof,
- (ii) Seek an injunction to bar any actual or threatened violation or breach of this Agreement;
- (iii) Seek any other remedy authorized by law or in equity.

(b) Termination. Following the thirty (30) day notice period contemplated by 10(a) hereof, and upon thirty (30) days additional written notice of intention to terminate this Agreement, and upon the expiration of such additional thirty (30) day period, unless the default specified in the original thirty (30) day period has been remedied during such additional thirty (30) day period, (or if, with reasonable diligence the default cannot be remedied within such additional thirty (30) day period, then within such extended period as may be reasonably required therefor) the Agency may terminate this Agreement, without prejudice or limitation as to all other rights or remedies herein and/or under law or in equity. Such termination may be accomplished by terminating the Agency's leasehold interest in the Land and the Project under the Lease Agreement, as determined by the Agency and the recording of Termination Memorandums of the Lease Agreement and the Leaseback Agreement in the County Clerk's Office shall be deemed to be delivery thereof.

11. Legal Fees on Default. If the Agency shall be required to take any action to enforce this Agreement or to collect any amount due hereunder, the Company shall be liable to pay, in addition to any other costs and expenses incurred by the Agency, its reasonable legal fees

and the reasonable fees of any experts, accountants, or other professionals retained by it, without regard to whether the Agency shall have instituted any law suit or action at law or in equity in any court or before anybody, provided such expenses were actually and necessarily incurred.

12. Late Charges. If any PILOT Payment is not made by the Payment Due Date, or if any other payment required to be made hereunder is not made when due by the last day of any applicable cure period, the Company shall pay penalties and interest as provided herein. With respect to PILOT Payments, if said payment is not received by the Payment Due Date, the Company shall pay, in addition to the PILOT Payment, a late charge equal to five (5%) percent of the amount due plus interest on said payment equal to one (1%) percent per month or fraction thereof until the PILOT Payment, penalty and interest is paid in full. With respect to all other payments due hereunder, if said payment is not paid when due or by the last day of any applicable cure period, the Company shall pay, in addition to said payment, the greater of (a) a late charge equal to five (5%) percent of the amount due plus interest on said payment equal to one (1%) percent per month or fraction thereof until said payment, penalty and interest is paid in full; or (b) penalties and interest which would have been incurred had payments made hereunder been made to the Taxing Jurisdictions.
13. Termination of Lease Agreement and Leaseback Agreement. This Agreement will automatically terminate upon termination of the Lease Agreement and Leaseback Agreement and Company will have no further liability other than such obligations as survive termination hereof.
14. Indemnification. The Company shall indemnify, defend and hold the Agency (and its executive director, directors, officers, members, agents, employees and servants) harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever in relation to the Project, including expenses incurred by the Agency (and its executive director, directors, officers, members, agents, employees and servants) in defending any claim, suit or action which may result as a result of the foregoing.
15. No Recourse, Special Obligation.
 - (a) The obligations and agreements of the Agency contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not any director, officer, employee, member, agent (other than the Company) or representative of the Agency in his individual capacity, and the directors, officers, employees, members, agents (other than the Company) or representatives of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

- (b) The obligations and agreements of the Agency contained hereby shall not constitute or give rise to an obligation of the State or of the County and neither the State nor the County shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency derived and to be derived from the Agency's interest in the Land (except for revenues derived by the Agency with respect to the Unassigned Rights).
- (c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (i) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (ii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (iii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its directors, officers, employees, members, agents (other than the Company) or representatives of the Agency shall be subject to potential liability, the party seeking such order or decree shall agree to indemnify and hold harmless the Agency and its directors, officers, employees, members, agents (other than the Company) and representatives of the Agency against all liability expected to be incurred as a result of compliance with such request.
- (d) The obligations and agreements of the Company contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Company, and not of any member, direct or indirect beneficial owners, affiliates, partners, shareholders, officers, directors, agents, employees or representatives of the Company in his or their individual capacity, and the members, direct or indirect beneficial owners, affiliates, partners, shareholders, officers, directors, agents and employees or representatives of the Company shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

16. General Provisions.

- (a) Notices. All notices provided for by this Agreement shall be made in writing, and shall be deemed to have been given on the date of delivery if personally served on the party to whom notice is to be given, or on the next day after mailing if mailed to the party to whom notice is to be given by overnight courier of national reputation providing evidence of receipt and properly addressed, or on the third day after mailing if mailed to the party to whom notice shall be given by First Class, Certified mail, postage prepaid and properly addressed to the following:

If to the Agency:

County of Sullivan Industrial Development Agency
548 Broadway
Monticello, New York 12701
Attn: Chief Executive Officer

with a copy to:

GARIGLIANO LAW OFFICES, LLP
449 Broadway, P.O. Drawer 1069
Monticello, New York 12701-1069
Attn: Agency Counsel

If to the Company:

NY Delaware V, LLC
140 East 45th Street, Suite 32B-1
New York, New York 10017

with a copy to:

Law Office of Richard Chun, PLLC
1225 Franklin Avenue, Suite 325
Garden City, New York 11530

or at such other addresses and/or addressees as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section.

- (b) Assignment. This Agreement may not be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits hereunder without the prior written consent of the Agency, which consent may be withheld by the Agency in its sole and absolute discretion; provided, that Company may assign this Agreement to an affiliate or make a collateral assignment for the benefit of a financing party providing financing for the Project without consent; and provided further that Company may assign this Agreement to any permitted assignee of the Lease Agreement and the Leaseback Agreement.
- (c) Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Agency, the Company and its respective permitted successors and assigns.

- (d) Waiver. No waiver of any of the provisions of this Agreement shall be deemed to or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.
- (e) Severability. If any provision of this Agreement shall be determined to be illegal and unenforceable by any court of law or any competent governmental or other authority, the remaining provisions shall be severable and enforceable in accordance with its terms so long as this Agreement without such terms or provisions does not fail of its essential purpose or purposes. The parties will negotiate in good faith to replace any such illegal or unenforceable provision or provisions with suitable substitute provisions which will maintain the economic purposes and intentions of this Agreement.
- (f) Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State. The parties hereby designate a court of proper jurisdiction located in the County as the exclusive venue for resolution of any disputes which may arise under or by reason of this Agreement.
- (g) Survival of Obligations. The obligations of the Company to make PILOT Payments and all of the Company's indemnification obligations shall survive any termination or expiration of this Agreement.
- (h) Section Headings Not Controlling. The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provision of this Agreement.
- (i) Entire Agreement. This Agreement together with the Lease Agreement, Leaseback Agreement and the Agent and Project Agreement sets forth the entire agreement and understanding between the parties relating to the subject matter hereof and supersedes all prior discussions and negotiations between them. This Agreement may not be amended in any respect except by a written amendment expressly referring to this Agreement and executed by the parties to be bound thereby.

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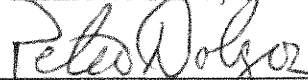
IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date hereof.

COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY



By: Edward T. Sykes, Chief Executive Officer

NY DELAWARE V, LLC



By: Peter Dolgos, Senior Vice President

EXHIBIT A

ALL of that piece or parcel of land situate in the Town of Delaware, County of Sullivan and State of New York, being more particularly known and designated as Lot 3, shown on a map entitled "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC", dated July 9, 2019, revised August 21, 2019, and filed in the Sullivan County Clerk's Office on August 27, 2019 as Map Number 15-185 A & B, bounded and described as follows:

BEGINNING at a point in the common line of Divisions 77 and 59 in Great Lot 1 of the Hardenburgh Patent, which Division line is the easterly line of land of Thomas A. and Jennifer Diehl (Instrument No. 2013-388), said place of beginning is further described as being North 07 degrees 23 minutes 48 seconds East 91.79 feet, as measured along said Division line and easterly line of said land of Thomas A. and Jennifer Diehl, from an iron rod found at the common corner of said land of Thomas A. and Jennifer Diehl and "PARCEL 1" in a deed to Peter A. Diehl, Sr. and Alice V. Diehl, as Trustees of the Peter A. Diehl, Sr. & Alice V. Diehl Loving Trust (Instrument Number 2019-2028), and said place of beginning is still further described as being at a common corner of Lot 4 and the hereby described Lot 3, as shown on the aforementioned "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC".

- 1) Thence from said place of beginning, North 07 degrees 23 minutes 48 seconds East 212.11 feet, along said line of Divisions 77 and 59, which is the easterly of said land of Thomas A. and Jennifer Diehl, to a point at a common corner of Lot 2 and the hereby described Lot 3, as shown on the aforementioned "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC".
- 2) Thence along the line of said Lot 2, as shown on said "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC", for the following eight (8) courses and distances:
 - a) South 76 degrees 00 minutes 47 seconds East 1167.11 feet
 - b) North 13 degrees 51 minutes 01 seconds East 131.68 feet
 - c) North 53 degrees 43 minutes 57 seconds East 343.36 feet
 - d) North 13 degrees 58 minutes 57 seconds East 170.83 feet
 - e) South 76 degrees 00 minutes 05 seconds East 160.35 feet
 - f) North 05 degrees 57 minutes 35 seconds East 86.76 feet
 - g) South 81 degrees 15 minutes 32 seconds East 87.09 feet
 - h) North 77 degrees 04 minutes 14 seconds East 19.80 feet, to a point in the westerly line of an 18.82 acre parcel previously retained by Michael R. and Tracy Puerschner.
- 3) Thence along the line of said 18.82 acre parcel previously retained by Michael R. and Tracy Puerschner, for the following two (2) courses and distances:
 - a) South 21 degrees 14 minutes 32 seconds West 110.08 feet
 - b) South 81 degrees 43 minutes 50 seconds East 23.27 feet, to a ½" rebar set at the northwesterly corner of land of David Berg, Jack Berg, Daniel Berg, and Richard Berg (Liber 2214, Page 426).
- 4) Thence South 05 degrees 57 minutes 35 seconds West 597.65 feet, along the line of said land of David Berg et al, as generally evidenced by a stone row, to a ½" rebar set in a stone wall.
- 5) Thence North 81 degrees 11 minutes 26 seconds West 290.92 feet, continuing along the line of said land of David Berg et al, as evidenced by a stonewall, to a ½" rebar set in a stonewall corner.
- 6) Thence South 05 degrees 56 minutes 48 seconds West 275.64 feet, continuing along the line of said land of David Berg et al, as evidenced by a stonewall to a point at the northeasterly corner of Lot 4, as

shown on the aforementioned "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC".

- 7) Thence along the line of said Lot 4, for the following three (3) courses and distances:
 - a) North 76 degrees 00 minutes 00 seconds West 500.58 feet
 - b) North 14 degrees 00 minutes 00 seconds East 117.48 feet
 - c) North 76 degrees 00 minutes 00 seconds West 955.58 feet, to the point or place of beginning.

CONTAINING 14.00 acres of land.

TOGETHER WITH AND SUBJECT to the rights of others in and to that certain right of way fifty (50) feet in width as shown on the aforementioned "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC", dated July 9, 2019, revised August 21, 2019, and filed in the Sullivan County Clerk's Office on August 27, 2019 as Map Number 15-185 A & B.