

PROJECT EVALUATION and COST/BENEFIT ANALYSIS

(As required by Section 869-A3 of New York General Municipal Law)

Project Applicant: **Omni Navitas Holdings, LLC, ASA Gouverneur Solar II, LLC Project #4001-20-08**

Estimated COST of Agency Assistance

1. Sales and Use Tax Exemption

a. Amount of Project Cost Subject to Tax:		<u>\$ N/A</u>
	Sales and Use Tax Rate	<u>8%</u>
b. Estimated Exemption:		<u>\$ 0</u>

2. Mortgage Recording Tax Exemption

a. Projected Amount of Mortgage:		<u>\$ N/A</u>
	Mortgage Recording Tax Rate	<u>0.75%</u>
b. Estimated Exemption:		<u>\$ 0</u>

3. Real Property Tax Exemption

Property Location	Town of Gouverneur	
a. Investment in Real Property		<u>6,558,021</u>
b. Pre-project Assessment		<u>64,200</u>
c. Projected Post-project Assessment		<u>1,211,355</u>
d. Equalization Rate (for reference only)		<u>93%</u>
e. Increase in Assessed Value of Property		<u>1,147,155</u>
f. Total Applicable Tax Rates per \$1,000		<u>\$27.65</u>
g. Estimated Taxes over PILOT Period	(RPTL 581-a)	<u>669,879</u>
h. PILOT Payments over PILOT Period		<u>\$413,055</u>
i. Net Exemption Amount	(g – h) (minus Base \$38,610 over 20 years)	<u>\$ 218,214</u>

4. Interest Exemption [Bond Only]

a. Total Estimated Interest Expense	(Assuming Taxable interest)	<u> </u>
b. Total Estimated Interest Expense	(Assuming Tax Exempt Interest)	<u> </u>
c. Interest Exemption	(a – b)	<u>\$N/A</u>

TOTAL ESTIMATED EXEMPTIONS **\$ 218,214**

*The project would be subject to NYS RPTL 487 without the proposed IDA PILOT, which would result in no added value to the assessment for 15 years. Proposed PILOT Payments of \$4,250 per MW would result in payments of \$17,000 to the Town, School, and County in year 1 with 2% escalator for a total 20 year PILOT payments of \$413,055.

Due to the unique nature of the proposed project, the proposed PILOT represents a deviation from the standard IDA PILOT as outlined in the St. Lawrence County Industrial Development Agency’s Uniform Tax Exemption Policy. Per that Policy, the IDA has sought, and received the consent of the local affected taxing jurisdictions for the proposed PILOT.

PROJECT AGREEMENT

Project #4001-20-08

THIS PROJECT AGREEMENT (the "Project Agreement"), made as of June 1, 2022, by and between the ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a New York public benefit corporation, with offices at 19 Commerce Lane, Suite 1, Canton, New York 13617 (the "Agency"), and ASA GOUVERNEUR NY SOLAR II LLC, a limited liability company organized and existing under the laws of the State of Delaware, with offices located at 1550 Wewatta Street, Denver, Colorado (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 132 of the Laws of 1971 of the State of New York (the "State"), as amended, codified as Section 914 of the General Municipal Law of the State ("GML"), pursuant to Title 1 of Article 18-A of the GML, as amended (collectively, the "Act"); and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of (A) (1) the acquisition of an interest in approximately 17.8 acre portion of an approximately 198.9 acre parcel of land located at 1645 US Highway 11 in the Town of Gouverneur, St. Lawrence County, New York (such portion being referred to hereinafter as the "Land"); (2) the installation on the Land of a 4.0 mW-AC ground-mounted photovoltaic solar energy system including panels, racking, inverters, electrical cables, grid interconnection, site preparation, access roads and any other required improvements (collectively, the "Facility") and (3) the acquisition and installation in and around the Facility of certain items of machinery, equipment, fixtures, furniture and other incidental tangible personal property (the "Equipment"), all of the foregoing to constitute a solar energy generating facility to be owned and operated by the Company (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency pursuant to a lease agreement dated as of June 1, 2022 (the "Lease Agreement") by and between the Agency and the Company (capitalized terms used in this Project Agreement and not otherwise defined shall have the meanings ascribed to such terms in the Lease Agreement); and

WHEREAS, by a resolution adopted by the members of the Agency on October 9, 2020 (the "Approving Resolution"), the Agency has conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance (collectively, as applicable, based upon the Approving Resolution, which may include a mortgage recording tax benefit, and partial abatement from real property taxes benefit, are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, the Agency requires, as a condition of and as an inducement for it to enter into the transactions contemplated by the Approving Resolution and as more particularly described in the Underlying Lease, the Lease Agreement, the Payment in Lieu of Tax Agreement, the Recapture Agreement and related documents (collectively, the "Basic Documents") that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Project Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Project Agreement.

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 by the parties hereof as follows:

ARTICLE I – REPRESENTATIONS AND WARRANTIES

Section 1.1 Agency. The Agency does hereby restate and incorporate herein by reference its representations, warranties and covenants contained in the Basic Documents as if the same were fully set forth herein.

Section 1.2 Company. The Company does hereby restate and incorporate herein by reference its representations, warranties and covenants contained in the Basic Documents as if the same were fully set forth herein.

ARTICLE II – FINANCIAL ASSISTANCE COVENANTS

Section 2.1 Financial Assistance. The Approving Resolution authorized the Financial Assistance to the Company and determined employment retention and/or creation minimum levels based, in part, on the Company-certified information regarding employment and general operations of the Company that the Company provided in the Application. In reliance on the certifications provided by the Company in the Application, the Agency agrees to provide the Company with the following Financial Assistance related to the Project:

(1) Sales and Use Tax Exemptions:	N/A
(2) Mortgage Recording Tax Exemption:	N/A
(3) Real Property Tax Exemption:	\$218,214*

*Based on Project Evaluation and Cost/Benefit Analysis prepared by and on file with the Agency.

Section 2.2 Purpose of Project. It is understood and agreed by the parties hereto that the purpose of the Agency’s provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Basic Documents in order to, promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project Facility to advance job opportunities, health, general prosperity and economic welfare of the people of St. Lawrence County and to otherwise accomplish the public purpose of the Act.

Section 2.3 Application. The Company represents and warrants that the information contained in the Application regarding (a) the number of full-time equivalent jobs (“FTEs”), by category, to be retained (0) over the next three years and to be created (0) over the next three years, as a result of the Financial Assistance authorized in the Approving Resolution and (b) the salary and fringe benefit averages and/or ranges for the categories of FTEs to be retained and created (\$0) is accurate.

Section 2.4 Certification and Documentation. The Company shall provide to the Agency the following certified statements and documentations:

- (a) on an annual basis enumerating the FTEs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location. Exhibit A contains the form of annual certification as so required as discussed above as well as additional Project assessment information that the Agency requires, on an annual basis no later than January 31 of each year during the term of the Lease Agreement, to be submitted to the Agency by the Company; and
- (b) on a quarterly basis, as of the last payroll for each fiscal quarter (i) with respect to FTEs, either (A) a form NYS-45 or (B) a written statement from the Company confirming the Company had no FTEs for such fiscal quarter, and (ii) with respect to independent contractors or employees of independent contractors working at the Project location, either (A) a report containing the number of independent contractors or employees of independent contractors so working or (B) a written statement from the Company confirming the Company had no independent contractors or employees of independent contractors so working, with such written statements (as the case may be) being delivered to the Agency at the same time as the form NYS-45 or other written statement (as the case may be) are provided to the Agency under this subsection.

Section 2.5 Recapture Agreement. The parties hereto understand and agree that Exhibit B to this Project Agreement contains a copy of the Recapture Agreement entered into, by and between the Company and the Agency, which provides for the suspension or discontinuance of Financial Assistance, or for the modification of the Payment in Lieu of Tax Agreement, if any, to require increased payments, in accordance with policies developed by the Agency. Additionally, the Recapture Agreement provides for the return of all or part of the Financial Assistance provided for the Project, including all or part of the amount of any tax exemptions, which shall be redistributed to the appropriate affected tax jurisdiction, as provided for in policies developed by the Agency, unless agreed to otherwise by any local taxing jurisdiction or jurisdictions.

Section 2.6 Payment in Lieu of Tax Agreement. If applicable, the parties hereto understand and agree that Exhibit C to this Project Agreement contains a copy of the Payment in Lieu of Tax Agreement entered into by and between the Company and the Agency.

Section 2.7 Employment Listing. The Company agrees to list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "OET Entities"): (1) the New York State Department of Labor Community Services Division and (2) the St. Lawrence County One Stop Career Center, the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective June 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)).

Section 2.8 Employment Consideration. Except as otherwise provided by collective bargaining agreement, the Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the OET Entities.

Section 2.9 Contingent Nature. Notwithstanding the provisions of Section 2.1 of this Project Agreement, the Agency and the Company agree that the amount of Financial Assistance to be received by the Company with respect to the Project shall be contingent upon, and shall bear a direct relationship to, the success or lack of success of the Project in delivering the promised public benefits, as outlined in the Application.

Section 2.10 Compliance. Under penalty of perjury, the Company certifies that it is in substantial compliance with all local, state, and federal tax, worker protection and environmental laws, rules and regulations.

ARTICLE III – MISCELLANEOUS

Section 3.1 Term. This Project Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the execution and delivery of this Project Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Project Agreement shall continue to remain in effect until the termination or expiration of all Financial Assistance, as provided for in the Basic Documents.

Section 3.2 Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Project Agreement to the Agency regardless of any investigation made by the Agency.

Section 3.3 Notices. All notices, certificates and other communications under this Project Agreement shall be in writing and shall be deemed given when delivered pursuant to the terms of the Basic Documents.

Section 3.4 Amendments. No amendment, change, modification, alteration or termination of this Project Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 3.5 Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Project Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Project Agreement or any part thereof.


Section 3.6 Governing Law. This Project Agreement shall be governed by, and construed in accordance with, the laws of the State, without regard or reference to its conflict of laws principles.

Section 3.7 Section Headings. The headings of the several Sections in this Project Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Project Agreement.

[Remainder of page left blank intentionally]

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

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY:  _____
Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC


By: _____
Carson Brown
Authorized Signatory

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

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC

By: 
Carson Brown
Authorized Signatory

STATE OF NEW YORK)
)ss:
COUNTY OF ST. LAWRENCE)

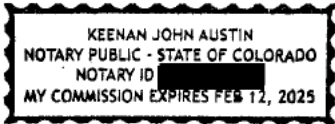
On the 6th day of June, in the year 2022, before me, the undersigned, personally appeared PATRICK J. KELLY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.




Notary Public
Lori A. Sibley
Notary Public, State of New York
No. [REDACTED]
Qualified in St. Lawrence County
Commission Expires September 30, 2025

STATE OF COLORADO)
)ss:
COUNTY OF DENVER)

On the 6TH day of June, in the year 2022, before me, the undersigned, personally appeared CARSON BROWN, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.





Notary Public

EXHIBIT A

FORM OF ANNUAL EMPLOYMENT AND SALARY AND FRINGE BENEFITS AND RELATED
PROJECT INFORMATION CERTIFICATION LETTER

January __, 20__

Re: New Project Verification

Dear Sir or Madam:

The St. Lawrence County Industrial Development Agency (the "Agency") is currently providing assistance in connection with your project in St. Lawrence County.

The Agency is required to file an annual report with the New York State Comptroller providing information on its activities, and the activities of projects that are assisted by the Agency. In order for the Agency to compile that report, it is necessary that we obtain information relating to assistance provided and benefits derived from all entities that receive such assistance. Failure by the Agency to file the report information required by New York State could result in the Agency losing its ability to provide future assistance or the entity suffering claw-back provisions and forfeiting benefits previously received. Therefore, it is important that this information be provided in an accurate and timely manner.

Attached please find a questionnaire to be completed and returned to the Agency by January 31st of each year during the term of the lease agreement dated as of June 1, 2022 by and between the Agency and ASA Gouverneur NY Solar II LLC, commencing on January 31, 2023. If you have any questions regarding the required information, please do not hesitate to call our office.

We appreciate your assistance in this matter. Please scan and email to [REDACTED] or Fax to [REDACTED]
[REDACTED]

Very truly yours,

Patrick Kelly
Chief Executive Officer
St. Lawrence County Industrial Development Agency

ANNUAL CERTIFIED STATEMENT AND REPORT

Insert Company Name
PROJECT NAME:
Name & Brief Description of project
COMPANY CONTACT INFORMATION:
Name
Phone
Email
<i>Please correct any of the above-listed information.</i>

Financing Information

Has the St. Lawrence County Industrial Development Agency provided project financing assistance through issuance of a bond or note?

If financing assistance was provided, please provide the following:

	Yes	No	N/A
Original principal balance of bond or note issued:			
Outstanding principal balance of such bond or note, as of December 31, 20__			
Principal paid during 20__			
Outstanding principal balance of such bond or note, at December 31, 20__			
Interest Rate on bond or note as of December 31, 20__			
Final Maturity Date of the bond or note			
Is the Company a Not-For-Profit?			

Sales Tax Abatement Information

	Yes	No	N/A
Has the St. Lawrence County Industrial Development Agency provided project financing assistance through the conveyance of a Sales and Use Tax Exemption on your project during 20__?			
If yes, please provide the amount of sales tax savings received on your project during 20__.	\$		

(A copy of the ST-340 sales tax report submitted to New York State for the reporting period is required to be attached with this report)

Mortgage Recording Tax Abatement Information

Has the St. Lawrence County Industrial Development Agency provided project financing assistance through the conveyance of a Mortgage Recording Tax Abatement on your project during 20__?	Yes	No	N/A
If yes, please provide the amount of mortgage recording tax savings received on your project during 20__.	\$		

(Mortgage Recording Tax Abatement Information should only be reported in the year that the mortgage was placed upon the project.)

Jobs Information

Please complete the following chart for the permanent jobs created by the Project. Enter data as follows:

For purposes of this application, we are providing the following guidelines to help you calculate employment levels:

- Full Time: Any permanent employee who works 30 or more hours each week and does so on a regularly-scheduled basis.
- Part Time Temporary/Seasonal: Any employee who works fewer than 30 hours each week, and does so on an occasional, temporary or as-needed basis.

A: Insert the number of full time jobs that currently exist within your company at the time of application.

B: Insert the number of part time jobs that currently exist within your company at the time of application.

Jobs	(A)		(B)	
	Current Jobs		Current Jobs	
Full Time			Part Time	
Management			Management	
Professional			Professional	
Administrative			Administrative	
Production			Production	
Independent Contractor			Independent Contractor	
Other:			Other:	
Total			Total	

A copy of Form NYS-45 for the project location is required to be submitted with this report. If the Form NYS-45 is not available for the specific project location or the form does not accurately reflect the full-time equivalent jobs created, then an internal report verifying the total jobs by employment category as outlined above at the location is required with this submission.

Number of FTE construction jobs during reporting year: _____

20 Capital Investment

Real Estate	
Construction	
Machinery and Equipment	
Other Taxable Expenses	
Other Non-Taxable Expenses	
Total Capital Investment	

Officer's Certification

I certify that to the best of my knowledge and belief all of the information with this form is correct. I also understand that failure to report completely and accurately may result in enforcement of provisions of the Project Agreement, including but not limited to avoidance of the agreement and potential claw back of benefits.

Signed: _____

(Authorized Company Representative)

Date: _____

CLOSING ITEM NO.: A-3

ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

ASA GOUVERNEUR NY SOLAR II LLC, LLC

LEASE AGREEMENT

DATED AS OF JUNE 1, 2022

RELATING TO A LEASEHOLD INTEREST HELD BY THE
LANDLORD IN A CERTAIN PARCEL OF LAND LOCATED AT 1645
US HIGHWAY 11 IN THE TOWN OF GOUVERNEUR, ST.
LAWRENCE COUNTY, NEW YORK

THIS LEASE AGREEMENT CONSTITUTES A SECURITY
AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE OF
THE STATE OF NEW YORK.

PROJECT NUMBER: 4001-20-08

TABLE OF CONTENTS

(This Table of Contents is not part of the Lease Agreement and is for convenience of reference only.)

	PAGE
PARTIES	1
RECITALS.....	1

ARTICLE I

DEFINITIONS

Section 1.1. Definitions	4
Section 1.2. Interpretation	4

ARTICLE II

REPRESENTATIONS, WARRANTIES
AND COVENANTS

Section 2.1. Representations, Warranties and Covenants of the Agency	5
Section 2.2. Representations, Warranties and Covenants of the Company	5

ARTICLE III

CONVEYANCE AND USE OF
PROJECT FACILITY

Section 3.1. Conveyance to the Agency	8
Section 3.2. Use of the Project Facility	8
Section 3.3. Hazardous Materials	8
Section 3.4. Non-Merger	9
Section 3.5. Compliance with Underlying Lease	9

ARTICLE IV

UNDERTAKING AND COMPLETION OF THE PROJECT

Section 4.1. Acquisition, Construction and Installation of the Project Facility.....	11
Section 4.2. Completion of the Project Facility.....	12
Section 4.3. Remedies to be Pursued Against Contractors, Subcontractors, Materialmen and their Sureties.....	12

ARTICLE V

LEASE OF THE PROJECT FACILITY; RENTAL PAYMENTS
AND OTHER AMOUNTS PAYABLE

Section 5.1. Lease of the Project Facility 14
Section 5.2. Duration of the Lease Term; Quiet Enjoyment 14
Section 5.3. Rental Payments and Other Amounts Payable 14
Section 5.4. Nature of Obligations of the Company Hereunder 15

ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1. Maintenance and Modifications of the Project Facility 16
Section 6.2. Taxes, Assessments and Utility Charges 16
Section 6.3. Insurance Required 17
Section 6.4. Additional Provisions Respecting Insurance 17
Section 6.5. Application of Net Proceeds of Insurance 18
Section 6.6. Payments in Lieu of Real Estate Taxes 18

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1. Damage or Destruction 20
Section 7.2. Condemnation 21
Section 7.3. Additions to the Project Facility 22

ARTICLE VIII

SPECIAL COVENANTS

Section 8.1. No Warranty of Condition or Suitability by the Agency;
Acceptance "As Is" 23
Section 8.2. Hold Harmless Provisions 23
Section 8.3. Right of Access to the Project Facility 24
Section 8.4. Company not to Terminate Existence or Dispose of Assets; Conditions
under which Exceptions are Permitted 24
Section 8.5. Agreement to Provide Information 24
Section 8.6. Books of Record and Account; Compliance Certificates 24
Section 8.7. Compliance with Applicable Laws 25
Section 8.8. Discharge of Liens and Encumbrances 25
Section 8.9. Performance of the Company's Obligations 25
Section 8.10. Depreciation Deductions and Tax Credits 25
Section 8.11. Employment Opportunities 25
Section 8.12. Identification of the Equipment 26

ARTICLE IX

ASSIGNMENTS; MERGER OF THE AGENCY

Section 9.1. Assignment of the Lease Agreement27
Section 9.2. Merger of the Agency27
Section 9.3. Sale or Lease of the Project Facility27

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1. Events of Default Defined 29
Section 10.2. Remedies on Default 30
Section 10.3. Remedies Cumulative 31
Section 10.4. Agreement to Pay Attorneys' Fees and Expenses 31
Section 10.5. No Additional Waiver Implied by One Waiver 31

ARTICLE XI

OPTIONS AND OBLIGATION TO PURCHASE

Section 11.1. Early Termination of the Lease Agreement..... 32
Section 11.2. Obligation to Sell and Purchase the Project Facility 32
Section 11.3. Conveyance on Purchase of the Project Facility 32

ARTICLE XII

MISCELLANEOUS

Section 12.1. Notices 34
Section 12.2. Binding Effect..... 34
Section 12.3. Severability 35
Section 12.4. Amendment 35
Section 12.5. Execution of Counterparts 35
Section 12.6. Applicable Law..... 35
Section 12.7. Recording and Filing 35
Section 12.8. Survival of Obligations..... 35
Section 12.9. Table of Contents and Section Headings Not Controlling 35
Section 12.10. No Recourse; Special Obligation..... 35
Section 12.11. Subordination to the Mortgage 36

TESTIMONIUM..... 37

SIGNATURES 37

ACKNOWLEDGMENTS..... 38

APPENDIX A - Schedule of Definitions AppA-1

EXHIBIT A - Description of the Land A-1

EXHIBIT B - Description of the Equipment B-1

EXHIBIT C - Form of Termination of Underlying Lease..... C-1

EXHIBIT D - Form of Termination of Lease Agreement D-1

EXHIBIT E - Initial Employment Plan E-1
EXHIBIT F - Form of Annual Employment Report F-1

LEASE AGREEMENT

THIS LEASE AGREEMENT dated as of June 1, 2022 (the "Lease Agreement") by and between ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 19 Commerce Lane – Suite 1, Canton, New York (the "Agency") and ASA GOUVERNEUR NY SOLAR II LLC, a limited liability company organized and existing under the laws of the State of Delaware (the "State") having an office for the transaction of business located at 1550 Wewatta Street, Denver, Colorado (the "Company");

WITNESSETH:

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

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of 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 purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 358 of the Laws of 1971 of the State, as amended (collectively, with the Enabling Act, the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of (A) (1) the acquisition of an interest in an approximately 17.8 acre portion of an approximately 198.9 acre parcel of land located at 1645 US Highway 11 in the Town of Gouverneur, St. Lawrence County, New York (such portion being referred to hereinafter as the "Land"); (2) the installation on the Land of a 4.0 mW-AC ground-mounted photovoltaic solar energy system including panels, racking, inverters, electrical cables, grid interconnection, site preparation, access roads and any other required improvements (collectively, the "Facility") and (3) the acquisition and installation in and around the Facility of certain items of machinery, equipment, fixtures, furniture and other incidental tangible personal property (the "Equipment"), all of the foregoing to constitute a solar energy generating facility to be owned and operated by the Company (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an

obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency pursuant to a lease agreement dated as of June 1, 2022 (the "Lease Agreement") by and between the Agency and the Company (capitalized terms used in this Project Agreement and not otherwise defined shall have the meanings ascribed to such terms in the Lease Agreement); and

WHEREAS, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the "Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on September 16, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located; (B) caused notice of the Public Hearing to be published in the Gouverneur Tribune Press on September 18, 2020 and in the Watertown Daily Times on September 20, 2020, respectively, being newspapers of general circulation available to the residents of the Town of Gouverneur, St. Lawrence County, New York; (C) in accordance with Executive Order 202.1 and the suspension of the Open Meetings Law relating to public hearings pursuant to Executive Order 202.15, each as issued by Governor Cuomo and as supplemented by subsequent Executive Orders issued by Governor Cuomo and all in response to the on-going Coronavirus (COVID-19) health crisis, conducted the Public Hearing on September 30, 2020 at 11:00 o'clock a.m., local time via webinar rather than in person; and (D) prepared a report of the Public Hearing (the "Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available to the members of the Agency; and

WHEREAS, the Company requested a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy") in the form of a payment-in-lieu of tax agreement with a term of 20 years (the "Deviation"), which Deviation (A) exceeds the Agency's standard 10 year period of abatement under the Policy and (B) required the consent of the Town of Gouverneur (the "Town") and the Gouverneur Central School District (the "School District") under the Policy prior to the approval of the Deviation by the Agency; and

WHEREAS, by resolutions adopted on September 14, 2020 and September 8, 2020, respectively, the School District and the Town consented to the Deviation; and

WHEREAS, by further resolution adopted by the members of the Agency on October 9, 2020 (the "Approving Resolution"), the Agency (A) (i) concurred in the determination that the Town of Gouverneur Planning Board (the "Planning Board") is the "lead agency" with respect to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA") and (ii) acknowledged receipt of a negative declaration from the Planning Board dated June 26, 2019 (the "Negative Declaration"), in which the Planning Board determined that the Project will not have a "significant effect on the environment" pursuant to SEQRA and therefore, that an environmental impact statement is not required to be prepared with respect to the Project (as such quoted terms are defined in SEQRA), (B) approved the Deviation and (C) determined to grant the Financial Assistance and to enter into a lease agreement dated as of June 1, 2022 (the "Lease Agreement") between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the "Basic Documents"). Pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Company. The Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Company will execute and deliver to the Agency a certain lease to agency (the "Lease to Agency") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency the Land and all improvements now or hereafter located thereon (collectively, the "Leased Premises"); (B) the Company and the Agency will execute and deliver (1) a certain payment in lieu of tax agreement (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility and (2) a certain recapture agreement (the "Recapture Agreement") by and between the Company and the Agency relating to the recovery or recapture of certain benefits granted under the Basic Documents (as defined in the Lease Agreement); (C) the Agency and the Company will execute and deliver a certain project agreement (the "Project Agreement") by and between the Agency and the Company relating to the terms of the granting by the Agency of the Financial Assistance to the Company; and (D) the Agency will file with the assessor and mail to the chief executive officer of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the "Real Property Tax Exemption Form") relating to the Project Facility and the Payment in Lieu of Tax Agreement; and

WHEREAS, the providing of the Project Facility and the lease of the Project Facility to the Company pursuant to this Lease Agreement is for a proper purpose, to wit, to advance the job opportunities, health, general prosperity and economic welfare of the inhabitants of the State, pursuant to the provisions of the Act; and

WHEREAS, all things necessary to constitute this Lease Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Lease Agreement have in all respects been duly authorized by the Agency and the Company;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY FORMALLY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS, TO WIT:

ARTICLE I

DEFINITIONS

SECTION 1.1. DEFINITIONS. All of the capitalized terms used in this Lease Agreement and the preambles hereto not otherwise defined shall have the meanings assigned thereto in the Schedule of Definitions attached hereto as Appendix A and made a part hereof.

SECTION 1.2. INTERPRETATION. In this Lease Agreement, unless the context otherwise requires:

(A) the terms “hereby”, “hereof”, “herein”, “hereunder” and any similar terms as used in this Lease Agreement, refer to this Lease Agreement, and the term “heretofore” shall mean before, and the term “hereafter” shall mean after, the date of this Lease Agreement;

(B) words of masculine gender shall mean and include correlative words of feminine and neuter genders;

(C) words importing the singular number shall mean and include the plural number, and vice versa;

(D) any headings preceding the texts of the several Articles and Sections of this Lease Agreement, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall neither constitute a part of this Lease Agreement nor affect its meaning, construction or effect; and

(E) any certificates, letters or opinions required to be given pursuant to this Lease Agreement shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Lease Agreement.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 2.1. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY. The Agency makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Agency is duly established under the provisions of the Act and has the power to enter into this Lease Agreement and the other Basic Documents to which the Agency is a party and to carry out its obligations hereunder and thereunder. Based upon the representations of the Company as to the utilization of the Project Facility, the Project will constitute a “project”, as such quoted term is defined in the Act. By proper official action, the Agency has been duly authorized to execute, deliver and perform this Lease Agreement and the other Basic Documents to which the Agency is a party.

(B) Neither the execution and delivery of this Lease Agreement or the other Basic Documents to which the Agency is a party, the consummation of the transactions contemplated hereby or thereby nor the fulfillment of or compliance with the provisions of this Lease Agreement or the other Basic Documents to which the Agency is a party will conflict with or result in a breach by the Agency of any of the terms, conditions or provisions of the Act, the by-laws of the Agency or any order, judgment, agreement or instrument to which the Agency is a party or by which the Agency is bound, or will constitute a default by the Agency under any of the foregoing.

(C) Pursuant to the Basic Documents, the Agency will acquire a leasehold interest in the Premises from the Company, will cause the Project Facility to be acquired, constructed and installed and will lease the Project Facility to the Company pursuant to this Lease Agreement, all for the purpose of advancing the job opportunities, health, general prosperity and economic welfare of the people of the State and improving their standard of living.

(D) Except as provided in Article IX and Article X hereof, the Agency, to the extent of its interest therein, shall not sell, assign, transfer, encumber or pledge as security the Project Facility or any part thereof and shall maintain the Project Facility free and clear of all Liens or encumbrances, except for Permitted Encumbrances and as contemplated or allowed by the terms of this Lease Agreement and the other Basic Documents.

SECTION 2.2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY. The Company makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Company is a limited liability company duly organized and validly existing under the laws of the State of Delaware, is qualified and authorized to do business in the State of New York and all other jurisdictions in which its operations or ownership of Properties so require, and has the power to enter into this Lease Agreement and the other Basic Documents to which the Company is a party and to carry out its obligations hereunder and thereunder. By proper action of its member, the Company has been duly authorized to execute, deliver and perform this Lease Agreement and the other Basic Documents to which the Company is a party.

(B) Except as has been heretofore disclosed to the Agency, neither the execution and delivery of this Lease Agreement or the other Basic Documents to which the Company is a party, the consummation

of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the provisions of this Lease Agreement or the other Basic Documents to which the Company is a party will (1) conflict with or result in a breach of any of the terms, conditions or provisions of the Company's Articles of Organization and operating agreement or any other restriction, order, judgment, agreement or instrument to which the Company is a party or by which the Company or any of its Property is bound, or (2) constitute a default by the Company under any of the foregoing, or result in the creation or imposition of any Lien of any nature upon any Property of the Company under the terms of any such instrument or agreement, other than the Permitted Encumbrances, or (3) require consent (which has not been heretofore received) under any restriction, agreement or instrument to which the Company is a party or by which the Company or any of its Property may be bound or affected, or (4) require consent (which has not been heretofore obtained) under or conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any government, governmental instrumentality or court (domestic or foreign) having jurisdiction over the Company or any of the Property of the Company.

(C) The completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State of New York to another area in the State of New York and will not result in the abandonment of one or more plants or facilities of any occupant of the Project Facility located in the State of New York.

(D) The Project Facility does not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, and accordingly the Project is not prohibited by the provisions of Section 862(2)(a) of the Act, and accordingly the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act.

(E) The Basic Documents to which the Company is a party constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(F) The Project Facility is, and so long as this Lease Agreement shall remain in effect, the Project Facility will continue to be a "project", as such quoted term is defined in the Act, and the Company will not take any action (or omit to take any action required by the Basic Documents or which the Agency advises the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way (1) cause the Project Facility not to constitute a "project", as such quoted term is defined in the Act, or (2) cause the Financial Assistance to be applied in a manner contrary to that provided in the Basic Documents.

(G) The Project Facility and the operation thereof will comply with all Applicable Laws, and the Company will defend and save the Agency and its officers, members, agents and employees harmless from all fines and penalties due to failure to comply therewith. The Company shall cause all notices as required by all Applicable Laws to be given, and shall comply or cause compliance with all Applicable Laws, and the Company will defend and save the Agency and its officers, members, agents and employees harmless from all fines and penalties due to failure to comply therewith.

(H) The Project will not have a "significant impact on the environment" (within the meaning of such term as used in SEQRA), and the Company hereby covenants to comply with all mitigation measures, requirements and conditions, if any, enumerated in the SEQR Resolution under SEQRA (and any other environmental determinations issued under SEQRA by any other Governmental Authority) applicable to the acquisition, construction, reconstruction and installation of the Project Facility and in any other approvals issued by any other Governmental Authority with respect to the Project and/or the Project Facility. No material changes with respect to any aspect of the Project Facility have arisen from the date of

such SEQR Resolution which would cause the determinations of the Town of Gouverneur Planning Board contained therein to be untrue.

(I) The Company acknowledges receipt of notice of Section 858-b of the Act, which requires that the Company list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "JTPA Entities"): (1) the New York State Department of Labor Community Services Division and (2) the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project Facility is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective June 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)). The Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the JTPA Entities.

ARTICLE III

CONVEYANCE AND USE OF PROJECT FACILITY

SECTION 3.1. CONVEYANCE TO THE AGENCY. (A) Pursuant to the Underlying Lease, the Company has or will convey, or will cause to be conveyed, to the Agency a leasehold interest in the Project Facility, including the Land and all improvements located or to be located thereon. The Company shall execute, deliver and record or file all instruments necessary or appropriate to so vest title in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons. The Company shall, however, be entitled to physical possession and control of the Project Facility and shall be liable at all times for all risk, loss and damage with respect to the Project Facility.

(B) The Company hereby represents and warrants that it has a leasehold interest in the portions of the Project Facility that exist on the Closing Date, free and clear from all Liens except for Permitted Encumbrances, and agrees that the Company will defend, indemnify and hold the Agency harmless from any expense or liability due to any defect in title thereto. The Company shall execute, deliver and record or file all instruments necessary or appropriate to so vest title in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons. The Company also agrees to pay all reasonable expenses incurred by the Agency in defending any action with respect to title to or a Lien affecting the Project Facility, except for Permitted Encumbrances.

SECTION 3.2. USE OF PROJECT FACILITY. Subsequent to the Closing Date, the Company shall be entitled to use the Project Facility in any manner not otherwise prohibited by the Basic Documents or the Act, provided such use causes the Project Facility to qualify or continue to qualify as a "project" under the Act and does not tend, in the reasonable judgment of the Agency, to bring the Project Facility into disrepute as a public project; provided, however, that the Project Facility will not be used (1) as facilities used or to be used primarily for sectarian instruction or as a place of religious worship or (2) primarily as in connection with any part of a program of a school or department of divinity for any religious denomination; provided, further, however, that at no time shall any such use of the Project Facility be other than as a solar energy generating facility and uses related thereto, without the written consent of the Agency.

SECTION 3.3. HAZARDOUS MATERIALS. (A) The Company, to the best of the Company's knowledge, without inquiry, warrants and covenants that the Company has not used Hazardous Materials on, from or affecting the Project Facility in any manner which violates any Applicable Law, including but not limited to those governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and no prior owner of the Project Facility or any tenant, subtenant, prior tenant or prior subtenant has used Hazardous Materials on, from or affecting the Project Facility in any manner which violates any Applicable Law, including but not limited to those governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials.

(B) The Company shall keep or cause the Project Facility to be kept free of all Hazardous Materials in violation of Applicable Laws. Without limiting the foregoing, the Company shall not cause or permit the Project Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all Applicable Laws, nor shall the Company cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company, or any tenant or subtenant of the Company, an unlawful release of Hazardous Materials onto the Project Facility or onto any other property.

(C) The Company shall comply with, and ensure compliance by all tenants and subtenants of the Company with, all Applicable Laws regarding Hazardous Materials whenever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants and subtenants of the Company obtain and comply with, any and all approvals, registrations or permits required thereunder.

(D) The Company shall (1) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up, remove or contain all Hazardous Material on, from or affecting the Project Facility (a) in accordance with all Applicable Laws, (b) to the satisfaction of the Agency, and (c) in accordance with the orders and directives of all federal, state and local governmental authorities and (2) defend, indemnify, and hold harmless the Agency and its employees, agents, officers and members from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (a) the presence, disposal, release or threatened release of any Hazardous Materials used, transported, stored, manufactured, refined, handled, produced or disposed of on or in the Project Facility which are on, from or affecting soil, water, vegetation, buildings, personal property, persons, animals or otherwise, (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (c) any lawsuit brought or threatened, settlement reached, or any government order relating to such Hazardous Materials, and/or (d) any violations of Applicable Laws which are based upon or in any way related to such Hazardous Materials, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses. Costs under this subsection (D) will be repaid within fifteen (15) days after receipt of a demand therefor from the Agency with interest at the Default Interest Rate or the maximum permitted by law, whichever is less.

(E) The Company agrees that the Agency and its officers, agents or representatives, may at any reasonable time upon reasonable notice and at the Company's expense inspect the Company's books and records and inspect and conduct any tests on the Project Facility, including taking soil samples, in order to determine that the Company is in compliance with all Applicable Laws.

SECTION 3.4. NON-MERGER. During the term of this Lease Agreement, there shall be no merger of this Lease Agreement nor of the leasehold estate created by this Lease Agreement with the fee estate in the Premises or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly, (1) this Lease Agreement or the leasehold estate created by this Lease Agreement or any interest in this Lease Agreement or in any such leasehold estate and (2) the fee estate in the Premises or any part thereof or any interest in such fee estate, and no such merger shall occur unless and until all corporations, firms and other entities, including any mortgagee having any interest in (x) this Lease Agreement or the leasehold estate created by this Lease Agreement and (y) the fee estate in the Premises or any part thereof or any interest in such fee estate, shall join in a written instrument effecting such merger and shall duly record the same.

SECTION 3.5. COMPLIANCE WITH UNDERLYING LEASE. (A) Notwithstanding the granting of the leasehold interest created by the Underlying Lease in the Premises to the Agency pursuant to the Underlying Lease, the Company agrees, in consideration of the undertakings of the Agency set forth herein, that the Company will be and remain solely liable under the Underlying Lease for the performance of all covenants, agreements, obligations and duties of the Agency as tenant under the Underlying Lease, including but not limited to the making of all rental and other payments thereunder, and the Company will perform all of the covenants, agreements and obligations of the Agency as tenant under the Underlying Lease, at no expense to the Agency, in consideration of the execution and delivery by the Agency of the Basic Documents.

(B) The Company shall, on behalf of the Agency, (1) pay all rents, additional rents and other sums required to be paid by the Agency as tenant under and pursuant to the provisions of the Underlying

Lease and (2) diligently perform and observe all of the terms, covenants and conditions of the Underlying Lease on the part of the Agency, as tenant thereunder, to be performed and observed, unless such performance or observance shall be waived or not required in writing by the landlord under the Underlying Lease, to the end that all things shall be done which are necessary to keep unimpaired the rights of the Agency, as tenant, under the Underlying Lease.

ARTICLE IV

UNDERTAKING AND COMPLETION OF THE PROJECT

SECTION 4.1. ACQUISITION, CONSTRUCTION AND INSTALLATION OF THE PROJECT FACILITY. (A) The Company shall, on behalf of the Agency, promptly acquire, construct, and install the Project Facility, or cause the acquisition, construction and installation of the Project Facility, all in accordance with the Plans and Specifications.

(B) No material change in the Plans and Specifications shall be made unless the Agency shall have consented thereto in writing (which consent of the Agency shall not be unreasonably withheld or delayed).

(C) The leasehold interest of the Agency in all materials, equipment, machinery and other items of Property comprising the Project Facility shall vest in the Agency immediately upon execution of the Underlying Lease. The leasehold interest of the Agency in all materials, equipment, machinery and other items of Property acquired by the Company subsequent to the Closing Date and intended to be incorporated or installed in and to become part of the Project Facility shall vest in the Agency immediately upon incorporation or installation in the Project Facility, whichever shall first occur. The Company shall execute, deliver and record or file all instruments necessary or appropriate to vest title to the above in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons.

(D) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1; provided, however, that the liability of the Agency thereunder shall be limited to the moneys of the Company available therefor and advanced by the Company for such purpose pursuant to Section 4.1(H) hereof.

(E) The Agency hereby appoints the Company as its true and lawful agent to perform the following in compliance with the terms, purposes and intent of the Basic Documents, and the Company hereby accepts such appointment: (1) to acquire, construct and install the Project Facility, (2) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons, and in general to do all things which may be requisite or proper, all for the acquisition, construction and installation of the Project Facility, with the same powers and with the same validity as the Agency could do if acting in its own behalf, provided that the liability of the Agency thereunder shall be limited to the moneys made available therefore by the Company and advanced for such purposes by the Company pursuant to this Lease Agreement, (3) to pay all fees, costs and expenses incurred in the acquisition, construction and installation of the Project Facility from funds made available therefor in accordance with this Lease Agreement, and (4) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the acquisition, construction and installation of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond or other performance security in connection with the same.

(F) The Company has given or will give or cause to be given all notices and has complied or will comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on the Project Facility, and the Company will defend, indemnify and save the Agency and its officers, members, agents, servants and employees harmless from all fines and penalties due to failure to comply therewith. All permits and licenses necessary for the prosecution of work on the Project Facility shall be procured promptly by the Company.

(G) To the extent required by Applicable Law, the Company, as agent of the Agency, will cause (1) compliance with the requirements of Article 8 of the New York Labor Law, and (2) any contractor, subcontractor and other person involved in the acquisition, construction and installation of the Project Facility to comply with Article 8 of the New York Labor Law. The covenant in this subsection is not intended as a representation that Article 8 of the New York Labor Law applies to the Project.

(H) The Company agrees, for the benefit of the Agency, to undertake and complete the Project and to pay all such sums as may be required in connection therewith. Title to portions of the Project Facility acquired, constructed and installed at the Company's cost shall immediately upon such acquisition, construction or installation vest in the Agency. The Company shall execute, deliver and record or file such instruments as the Agency may request in order to perfect or protect the Agency's title to such portions of the Project Facility.

(I) No payment by the Company pursuant to this Section 4.1 shall entitle the Company to any reimbursement for any such expenditure from the Agency or to any diminution or abatement of any amounts payable by the Company under this Lease Agreement.

SECTION 4.2. COMPLETION OF THE PROJECT FACILITY. The Company will proceed with due diligence to commence and complete the acquisition, construction and installation of the Project Facility. Completion of the same shall be evidenced by a certificate signed by an Authorized Representative of the Company delivered to the Agency stating (A) the date of such completion, (B) that all labor, services, materials and supplies used therefor and all costs and expenses in connection therewith have been paid, (C) that the acquisition, construction and installation of the Project Facility has been completed, with the exception of ordinary punchlist items and work awaiting seasonal opportunity, (D) that the Company or the Agency has good and valid title to all Property constituting a portion of the Project Facility, free and clear of all Liens and encumbrances except Permitted Encumbrances, and (E) that the Project Facility is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate may state (1) that it is given without prejudice to any rights of the Company against third parties which exist at the date of such certificate or which may subsequently come into being, (2) that it is given only for the purposes of this Section 4.2, and (3) that no Person other than the Agency may benefit therefrom. Such certificate shall be accompanied by a certificate of occupancy, or a letter from the local Governmental Authority stating that no certificate of occupancy is required, and any and all permissions, licenses or consents required of Governmental Authorities for the occupancy, operation and use of the Project Facility for its intended purposes.

SECTION 4.3. REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES. In the event of a breach or an event of default by any contractor, subcontractor or materialman under any contract made by it in connection with the acquisition, construction and installation of the Project Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship or performance guaranty, the Company shall proceed, either separately or in conjunction with others, to exhaust the remedies of the Company and the Agency against the contractor, subcontractor or materialman so in default and against each surety for the performance of such contract. The Company may, in its own name or, with the prior written consent of the Agency, in the name of the Agency, prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman or surety which the Company deems reasonably necessary, and in such event the Agency hereby agrees, at the Company's sole expense, to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Agency in any such action or proceeding. The Company shall advise the Agency of any actions or proceedings taken hereunder. The Net Proceeds of any recovery secured by the Company as a result of any action pursued against a contractor, subcontractor, materialman or their sureties pursuant to this Section 4.3 may be used

to the extent necessary to complete the Project Facility, and thereafter be paid to the Company for its own use. The Company shall advise the Agency of any actions or proceedings taken hereunder.

ARTICLE V

DEMISE OF PROJECT FACILITY; RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE

SECTION 5.1. LEASE OF THE PROJECT FACILITY. In consideration of the Company's covenant herein to make rental payments hereunder, and in consideration of the other covenants of the Company contained herein, including the covenant to make additional and other payments required hereby, the Agency hereby agrees to lease to the Company, and the Company hereby agrees to rent and lease from the Agency, the Agency's interest in the Project Facility, subject only to Permitted Encumbrances. The obligation of the Agency under this Section 5.1 to lease the Project Facility to the Company shall be subject to there being no Event of Default existing hereunder, or any other event which would, but for the passage of time, be such an Event of Default, unless the same is cured in connection with such occurrence pursuant to the terms contained herein.

SECTION 5.2. DURATION OF THE LEASE TERM; QUIET ENJOYMENT. (A) The Agency shall deliver to the Company possession of the Project Facility, and the leasehold estate created hereby shall commence, on the Closing Date, and the Company shall accept possession of the Project Facility on the Closing Date.

(B) Except as otherwise provided in Article X hereof, the leasehold estate created hereby shall terminate on the earlier to occur of (1) the termination of the Underlying Lease, (2) December 31, 2043 or (3) the date that this Lease Agreement shall terminate pursuant to Article X or Article XI hereof.

(C) The Agency shall take no action, other than pursuant to Article X of this Lease Agreement, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project Facility during the term of this Lease Agreement and will, at the request of the Company and at the Company's expense, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project Facility.

SECTION 5.3. RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE. (A) The Company shall pay basic rental payments for the Project Facility as follows: On the date of execution and delivery of this Lease Agreement, the Company shall pay, as the basic lease payments due hereunder, (1) a single lump sum basic rental payment, equal to the Agency's initial administrative fee relating to the Project; and (2) the fees and expenses of general counsel and special counsel to the Agency relating to the Project.

(B) Within fifteen (15) days after receipt of a demand therefor from the Agency, the Company shall pay to the Agency the sum of the reasonable expenses of the Agency and the officers, members, agents and employees thereof incurred by reason of the Agency's ownership, leasing or sale of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Lease Agreement or any of the other Basic Documents, and any other fee or expense of the Agency with respect to the Project Facility, the leasing or sale of the Project Facility to the Company, or any of the other Basic Documents, the payment of which is not otherwise provided for under this Lease Agreement.

(C) The Company agrees to make the above-mentioned payments, without any further notice, by check or wire transfer, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event the Company shall fail to make any payment required by this Section 5.3 within ten (10) days after the date such payment is due, the Company shall pay the same, together with interest thereon at the Default Interest Rate or the maximum

rate permitted by law, whichever is less, from the date on which such payment was due until the date on which such payment is made.

SECTION 5.4. NATURE OF OBLIGATIONS OF THE COMPANY HEREUNDER. (A) The obligations of the Company to make the payments required by this Lease Agreement and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be general obligations of the Company and shall be absolute and unconditional irrespective of any defense or any right of set-off, recoupment, counterclaim or abatement that the Company may otherwise have against the Agency. The Company agrees that it will not suspend, discontinue or abate any payment required by, or fail to observe any of its other covenants or agreements contained in this Lease Agreement for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the Project, any defect in the title, design, operation, merchantability, fitness or condition of the Project Facility or any part thereof or in the suitability of the Project Facility or any part thereof for the Company's purposes or needs, failure of consideration for, destruction of or damage to, Condemnation of title to or the use of all or any part of the Project Facility, any change in the tax or other laws of the United States of America or of the State or any political subdivision thereof, or any failure of the Agency to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Lease Agreement.

(B) Nothing contained in this Section 5.4 shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Lease Agreement, and, in the event the Agency should fail to perform any such agreement, the Company may institute such action against the Agency as the Company may deem necessary to compel performance or recover damages for non-performance (subject to the provisions of Section 12.10 hereof); provided, however, that the Company shall look solely to the Agency's estate and interest in the Project Facility for the satisfaction of any right or remedy of the Company for the collection of a judgment (or other judicial process) requiring the payment of money by the Agency in the event of any liability on the part of the Agency, and no other Property or assets of the Agency or of the members, officers, agents (other than the Company) or employees of the Agency shall be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of the Company's remedies under or with respect to this Lease Agreement, the relationship of the Agency and the Company hereunder or the Company's use and occupancy of or purchase of or title to the Project Facility, or any other liability of the Agency to the Company.

ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

SECTION 6.1. MAINTENANCE OF AND MODIFICATIONS TO THE PROJECT FACILITY. (A) During the term of this Lease Agreement, the Company shall (1) keep the Project Facility in good condition and repair and preserve the same against waste, loss, damage and depreciation, ordinary wear and tear excepted, (2) make all necessary repairs and replacements to the Project Facility or any part thereof (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen), and (3) operate the Project Facility in a sound and economic manner.

(B) The Company shall not make any structural additions, modifications or improvements to the Project Facility or any part thereof unless:

(1) the Company shall (a) give or cause to be given all notices and comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on such addition, modification or improvement to the Project Facility, or a part thereof, (b) defend and save the Agency and its officers, members, agents (other than the Company) and employees harmless from all fines and penalties due to failure to comply therewith, (c) promptly procure all permits and licenses necessary for the prosecution of any work described in this Section 6.1(B), and (d) make all payments in lieu of taxes required by Section 6.6 hereof and the Payment in Lieu of Tax Agreement, including those required by Section 2.03(D) thereof;

(2) the addition, modification or improvement to the Project Facility shall not constitute a default under any of the Basic Documents; and

(3) the Company shall furnish to the Agency, at least thirty (30) days prior to commencing such addition, modification or improvement to the Project Facility detailed plans and specifications therefor; provided, further, however, that such plans need not be furnished to the Agency for nonstructural additions, modifications or improvements to the Project Facility which do not exceed, at any one time, \$250,000 in value.

SECTION 6.2. TAXES, ASSESSMENTS AND UTILITY CHARGES. (A) The Company shall pay or cause to be paid, as the same respectively become due, (1) all taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Project Facility, (2) all utility and other charges, including "service charges", incurred or imposed for the operation, maintenance, use, occupancy, upkeep and improvement of the Project Facility, (3) all assessments and charges of any kind whatsoever lawfully made with respect to the Project Facility by any Governmental Authority for public improvements; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated hereunder to pay only such installments as are required to be paid during the term of this Lease Agreement and (4) all payments in lieu of taxes with respect to the Project Facility payable pursuant to the Payment in Lieu of Tax Agreement and Section 6.6 hereof.

(B) Notwithstanding the provisions of subsection (A) of this Section 6.2, the Company may in good faith actively contest any such taxes, assessments and other charges, provided that the Company (1) first shall have notified the Agency in writing of such contest and (2) is not in default under any of the Basic Documents. Otherwise, the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

SECTION 6.3. INSURANCE REQUIRED. During the term of this Lease Agreement, the Company shall maintain insurance with respect to the Project Facility against such risks and for such amounts as are customarily insured against by businesses of like size and type, paying, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(A) (1) During and prior to completion of the Project Facility, builder's risk (or equivalent coverage) insurance upon any work done or material furnished in connection with the acquisition, construction, reconstruction and installation of the Project Facility, issued to the Company and the Agency, as insureds, as their interests may appear, and (2) at such time that builder's risk insurance is no longer available by virtue of completion of the acquisition, construction, reconstruction and installation of the Project Facility, insurance protecting the interests of the Company and the Agency, as insureds, as their interests may appear, against loss or damage to the Project Facility by fire, lightning, vandalism, malicious mischief and other perils normally insured against with a uniform extended coverage endorsement, such insurance at all times to be in an amount acceptable to the Company and the Agency.

(B) To the extent applicable, workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility or who are responsible for the acquisition, construction or installation of the Project Facility.

(C) Insurance protecting the Company and the Agency, as additional insureds, against loss or losses from liabilities imposed by law or assumed in any written contract (including, without limitation, the contractual liability assumed by the Company under Section 8.2 of this Lease Agreement) and arising from personal injury or death or damage to the Property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per person per accident or occurrence on account of personal injury, including death resulting therefrom, and \$500,000 per accident or occurrence on account of damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law. Additionally, the Company shall be required to provide an umbrella or excess liability policy protecting the Company and the Agency (the "Policy"), which Policy shall be permitted to provide liability insurance with respect to the Project and other projects receiving financial assistance from the Agency relating to the generation of solar energy (collectively, the "Projects") and which may insure other assets and contain policy limits (including aggregate limits or sub-limits) that are shared with the Projects; *provided*, however, that if the aggregate limits contained in the Policy are reduced during the term of the Policy by any one or more incident, occurrence, claim, settlement or judgment against such insurance relating to any of the Projects which reduce the available umbrella or excess liability limits under the Policy below \$10,000,000, the Company shall, within ten (10) Business Days after obtaining knowledge of such event, inform the Agency and within thirty (30) Business Days of the occurrence of such event either reinstate the aggregate limit to \$10,000,000 or purchase an additional umbrella or excess liability insurance policy reinstating the aggregate limit to \$10,000,000, unless otherwise waived by the Agency.

(D) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE COMPANY'S BUSINESS OR INTEREST.

SECTION 6.4. ADDITIONAL PROVISIONS RESPECTING INSURANCE. (A) All insurance required by Section 6.3 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State and satisfactory and having a Best rating satisfactory to the Agency. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All

policies evidencing such insurance shall name the Company and the Agency as insureds, as their interests may appear, and provide for at least thirty (30) days' written notice to the Company and the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof. All insurance required hereunder shall be in form, content and coverage satisfactory to the Agency. Certificates satisfactory in form and substance to the Agency to evidence all insurance required hereby shall be delivered to the Agency on or before the Closing Date. The Company shall deliver to the Agency on or before the first Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by Sections 6.3 and 6.4 hereof. At least thirty (30) days prior to the expiration of any such policy, the Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Lease Agreement.

(B) All premiums with respect to the insurance required by Section 6.3 hereof shall be paid by the Company. If at any time the Agency is not in receipt of written evidence that all insurance required hereunder is in force and effect, the Agency shall have the right without notice to the Company to take such action as the Agency deems necessary to protect its interest in the Project Facility, including, without limitation, the obtaining of such insurance coverage as the Agency in its sole discretion deems appropriate, and all expenses incurred by the Agency in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by the Company to the Agency upon demand, together with interest thereon at the Default Interest Rate.

SECTION 6.5. APPLICATION OF NET PROCEEDS OF INSURANCE. The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 hereof shall be applied as follows: (A) the Net Proceeds of the insurance required by Section 6.3(A) hereof shall be applied as provided in Section 7.1 hereof, and (B) the Net Proceeds of the insurance required by Section 6.3(B) and 6.3(C) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

SECTION 6.6. PAYMENTS IN LIEU OF REAL ESTATE TAXES. (A) It is recognized that under the provisions of the Act, the Agency is required to pay no taxes or assessments upon any of the Property acquired by it or under its jurisdiction, control or supervision or upon its activities. It is not the intention, however, of the parties hereto that the Project Facility be treated as exempt from real property taxation. Accordingly, the parties hereto acknowledge that the Payment in Lieu of Tax Agreement is expected to be executed with respect to the Project Facility, and a Real Property Tax Exemption Form will be filed by the Agency with respect to the Project Facility once the Payment in Lieu of Tax Agreement is executed by the Agency and the Company. Once the Payment in Lieu of Tax Agreement is executed by the Agency and the Company, and thereafter until the expiration date of the Payment in Lieu of Tax Agreement, the Agency and the Company hereby agree that the Company (or any subsequent user of the Project Facility pursuant to this Lease Agreement) shall be required to make or cause to be made payments in lieu of real estate taxes in the amounts and in the manner set forth in the Payment in Lieu of Tax Agreement.

(B) In the event that (1) the Project Facility would be subject to real property taxation if owned by the Company but shall be deemed exempt from real property taxation due to the involvement of the Agency therewith, and (2) the Payment in Lieu of Tax Agreement shall not have been entered into by the Agency and the Company, or if entered into the Payment in Lieu of Tax Agreement shall for any reason no longer be in effect, the Agency and the Company hereby agree that the Company, or any subsequent user of the Project Facility under this Lease Agreement, shall in such event be required to make or cause to be made payments in lieu of real property taxes to the school district or school districts, city, town, county, village and other political units wherein the Project Facility is located having taxing powers (such political units are hereinafter collectively referred to as the "Taxing Entities") in such amounts as would result from real property taxes being levied on the Project Facility by the Taxing Entities if the Project Facility were

privately owned by the Company and not deemed owned by or under the jurisdiction, control or supervision of the Agency, but with appropriate reductions similar to the tax exemptions and credits, if any, which would be afforded to the Company if it were the owner of the Project Facility. It is agreed that the Agency, in cooperation with the Company, (a) shall cause the Project Facility to be valued for purposes of determining the amounts due hereunder as if owned by the Company as aforesaid by the appropriate officer or officers of any of the Taxing Entities as may from time to time be charged with responsibility for making such valuations, (b) shall cause to be appropriately applied to the valuation or valuations so determined the respective real property tax rate or rates of the Taxing Entities that would be applicable to the Project Facility if so privately owned, (c) shall cause the appropriate officer or officers of the Taxing Entities charged with the duty of levying and collecting such real property taxes to submit to the Company, when the respective levies are made for purposes of such real property taxes upon Property privately owned as aforesaid, statements specifying the amounts and due dates of such real property taxes which the Taxing Entities would receive if such Property were so privately owned by the Company and not deemed owned by or under the jurisdiction, control or supervision of the Agency, and (d) shall file with the appropriate officer or officers any accounts or tax returns furnished to the Agency by the Company for the purpose of such filing.

(C) The Company shall pay or cause to be paid to the Taxing Entities when due all such payments in lieu of real property taxes with respect to the Project Facility required by Section 6.6(B) of this Lease Agreement to be paid to the Taxing Entities, subject in each case to the Company's right to (1) obtain exemptions and credits, if any, which would be afforded to a private owner of the Project Facility, including any available exemption under Section 485-b of the New York Real Property Tax Law with respect to the Project Facility, (2) contest valuations of the Project Facility made for the purpose of determining such payments therefrom, and (3) seek to obtain a refund of any such payments made.

(D) Pursuant to Section 874(5) of the Act, if the Company shall fail to make or cause to be made any payments in lieu of real property taxes required under this Section 6.6, the amount or amounts so in default shall continue as an obligation of the Company until fully paid, and the Company hereby agrees to pay or cause to be paid the same, together with a late payment penalty equal to five percent (5%) of the amount due. If the Company shall fail to make any payment required by this Section 6.6 when due and such delinquency shall continue beyond the first month, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the affected Taxing Entity until such payment in default shall have been made in full, and the Company shall pay the same to the affected Taxing Entity together with (1) an additional late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) the Default Interest Rate, or (b) the same rate per annum which would be payable if such amounts were delinquent taxes, until so paid in full.

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

SECTION 7.1. DAMAGE OR DESTRUCTION. (A) If the Project Facility shall be damaged or destroyed, in whole or in part:

(1) the Agency shall have no obligation to replace, repair, rebuild or restore the Project Facility;

(2) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement or under any other Basic Document (whether or not the Project Facility is replaced, repaired, rebuilt or restored);

(3) the Company shall promptly give notice thereof to the Agency; and

(4) except as otherwise provided in subsection (B) of this Section 7.1, (a) the Company shall promptly replace, repair, rebuild or restore the Project Facility to substantially the same condition and value as an operating entity as existed prior to such damage or destruction, with such changes, alterations and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations or modifications do not so change the nature of the Project Facility that it does not constitute a "project", as such quoted term is defined in the Act, or change the use of the Project Facility as specified in Section 3.2 hereof without the prior written consent of the Agency, and (b)(1) the Agency shall make available to the Company (from the Net Proceeds of any insurance settlement relating to the Project Facility, if any, on deposit with the Agency) such moneys as may be necessary to pay the costs of the replacement, repair, rebuilding or restoration of the Project Facility, and in the event that the funds from the Net Proceeds of any insurance settlement provided by the Agency to the Company are not sufficient to pay in full the costs of such replacement, repair, rebuilding or restoration, the Company shall nonetheless complete such work and shall pay from its own moneys that portion of the costs thereof in excess of such funds, and (2) any balance of such funds from the Net Proceeds of any insurance settlement relating to the Project Facility, if any, remaining on deposit with the Agency after payment of all of the costs of such replacement, repair, rebuilding or restoration shall be paid to the Company for its own purposes.

(B) Notwithstanding anything to the contrary contained in subsection (A) of this Section 7.1, the Company shall not be obligated to replace, repair, rebuild or restore the Project Facility, and the Net Proceeds of any insurance settlement shall not be applied as provided in subsection (A) of this Section 7.1, if the Company shall notify the Agency that it elects to exercise its option under Article XI hereof to purchase the Project Facility. In such event, or if an Event of Default shall have occurred and be continuing, the lesser of (1) the total amount of the Net Proceeds collected under any and all policies of insurance covering the damage to or destruction of the Project Facility, or (2) the amount necessary to prepay the Indebtedness in full shall be applied to the prepayment of the Indebtedness in full. If the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to prepay the Indebtedness in full, the Company shall pay to the Agency the difference between the Net Proceeds of such insurance and the amount necessary to prepay the Indebtedness in full.

(C) If all Indebtedness has been paid in full, all such Net Proceeds (or the balance thereof) shall be paid to the Company for its purposes.

(D) Unless an Event of Default under any of the Basic Documents shall have occurred and be continuing, the Company may adjust all claims under any policies of insurance required by Section 6.3(A) hereof.

SECTION 7.2. CONDEMNATION. (A) To the knowledge of the Company, no condemnation or eminent domain proceeding has been commenced or threatened against any part of the Project Facility. The Company shall notify the Agency of the institution of any condemnation proceedings and, within seven (7) days after inquiry from the Agency, inform the Agency in writing of the status of such proceeding.

(B) If title to, or the use of, all or any part of the Project Facility shall be taken by Condemnation:

- (1) the Agency shall have no obligation to restore the Project Facility;
- (2) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement or under any other Basic Document (whether or not the Project Facility is restored);
- (3) the Company shall promptly give notice thereof to the Agency; and
- (4) except as otherwise provided in subsection (C) of this Section 7.2, (a) the Company shall promptly restore the Project Facility (excluding any part of the Land or the Facility taken by Condemnation) as a complete architectural unit of substantially the same usefulness, design and construction as existed immediately prior to such Condemnation, with such changes, alterations and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations or modifications do not so change the nature of the Project Facility that it does not constitute a "project" as such quoted term is defined in the Act, or change the use of the Project Facility as specified in Section 3.2 hereof without the prior written consent of the Agency, and (b)(1) the Agency shall make available to the Company (from the Net Proceeds of any Condemnation award relating to the Project Facility, if any, on deposit with the Agency) such moneys as may be necessary to pay the costs of the restoration of the Project Facility, and in the event that the funds from the Net Proceeds of any Condemnation award on deposit with the Agency provided by the Agency to the Company are not sufficient to pay in full the costs of such restoration, the Company shall nonetheless complete such restoration and shall pay from its own moneys that portion of the costs thereof in excess of such funds, and (2) any balance of such funds from the Net Proceeds of any Condemnation award, if any, remaining on deposit with the Agency after payment of all of the costs of such restoration shall be paid to the Company for its own purposes.

(C) Notwithstanding anything to the contrary contained in subsection (B) of this Section 7.2, the Company shall not be obligated to restore the Project Facility, and the Net Proceeds of any Condemnation award shall not be applied as provided in subsection (B) of this Section 7.2, if the Company shall notify the Agency that it elects to exercise its option under Article XI hereof to purchase the Project Facility. In such event, or if an Event of Default shall have occurred and be continuing, the lesser of (1) the Net Proceeds of any Condemnation award, or (2) the amount necessary to prepay all of the Indebtedness in full shall be applied to the prepayment of the Indebtedness in full. If the Net Proceeds collected under any and all Condemnation awards are less than the amount necessary to prepay the Indebtedness in full, the Company shall pay to the Agency the difference between such amounts and the Net Proceeds of such Condemnation awards so that the Indebtedness shall be prepaid in full.

(D) If all of the Indebtedness has been paid in full, all such Net Proceeds or the balance thereof shall be paid to the Company for its purposes.

(E) Unless an Event of Default under any of the Basic Documents shall have occurred and be continuing, the Company shall have sole control of any Condemnation proceeding with respect to the Project Facility or any part thereof and may negotiate the settlement of any such proceeding. The Company shall notify the Agency of the institution of any condemnation proceedings and, within seven (7) days after inquiry from the Agency, inform the Agency in writing of the status of such proceeding.

(F) The Agency shall, at the expense of the Company, cooperate fully with the Company in the handling and conduct of any such Condemnation proceeding. In no event shall the Agency voluntarily settle, or consent to the settlement of, any such Condemnation proceeding without the written consent of the Company.

SECTION 7.3. ADDITIONS TO THE PROJECT FACILITY. All replacements, repairs, rebuilding or restoration made pursuant to Sections 7.1 or 7.2, whether or not requiring the expenditure of the Company's own money, shall automatically become part of the Project Facility as if the same were specifically described herein.

ARTICLE VIII

SPECIAL COVENANTS

SECTION 8.1. NO WARRANTY OF CONDITION OR SUITABILITY BY THE AGENCY; ACCEPTANCE "AS IS". THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE PROJECT FACILITY OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE PROJECT FACILITY OR ANY PART THEREOF FOR THE COMPANY'S PURPOSES OR NEEDS. THE COMPANY SHALL ACCEPT TITLE TO THE PROJECT FACILITY "AS IS", WITHOUT RECOURSE OF ANY NATURE AGAINST THE AGENCY FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

SECTION 8.2. HOLD HARMLESS PROVISIONS. (A) The Company hereby releases the Agency and its members, officers, agents (other than the Company) and employees from, agrees that the Agency and its members, officers, agents (other than the Company) and employees shall not be liable for and agrees to indemnify, defend and hold the Agency and its members, officers, agents (other than the Company) and employees harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising as a result of the Agency's undertaking the Project, including, but not limited to, (1) liability for loss or damage to Property or bodily injury to or death of any and all Persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Project Facility, (2) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, installing, owning, leasing or selling the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Agency's obligations under this Lease Agreement or any of the other Basic Documents or the enforcement of or defense of validity of any provision of any of the Basic Documents, (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Section 4.1(E) hereof, and (4) all causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing; provided that any such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company) or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(B) In the event of any claim against the Agency or its members, officers, agents (other than the Company) or employees by any employee of the Company or any contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(C) To effectuate the provisions of this Section 8.2, the Company agrees to provide for and insure, in the liability policies required by Section 6.3(C) of this Lease Agreement, its liabilities assumed pursuant to this Section 8.2.

(D) Notwithstanding any other provisions of this Lease Agreement, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Lease Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency, or its officers, members, agents (other than the Company) or employees, relating thereto.

SECTION 8.3. RIGHT OF ACCESS TO THE PROJECT FACILITY. The Company agrees that the Agency and its duly authorized agents shall have the right at all reasonable times upon reasonable notice to enter upon and to examine and inspect the Project Facility. The Company further agrees that the Agency shall have such rights of access to the Project Facility as may be reasonably necessary to cause the proper maintenance of the Project Facility in the event of failure by the Company to perform its obligations hereunder and the occurrence of an Event of Default arising therefrom.

SECTION 8.4. COMPANY NOT TO TERMINATE EXISTENCE OR DISPOSE OF ASSETS; CONDITIONS UNDER WHICH EXCEPTIONS ARE PERMITTED. The Company agrees that, during the term of this Lease Agreement, it will maintain its existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another entity, or permit one or more entities to consolidate with or merge into it, without notice to the Agency and obtaining the prior written consent of the Agency which consent shall not be unreasonably withheld or delayed; provided, however, that, if no Event of Default specified in Section 10.1 hereof shall have occurred and be continuing (and if no event exists which with the passage of time or notice or both would become an Event of Default), the Company may consolidate with or merge into another domestic entity organized and existing under the laws of one of the states of the United States, or permit one or more such domestic entities to consolidate with or merge into it, or sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, provided that (A) the Agency has received notice of such action, (B) the Agency gives its written consent to the proposed transaction, which consent shall not be unreasonably withheld or delayed, (C) the surviving, resulting or transferee entity assumes in writing all of the obligations of and restrictions on the Company under this Lease Agreement and the other Basic Documents, and (D) as of the date of such transaction, the Agency shall be furnished with (1) an opinion of counsel to the Company as to compliance with item (C) of this Section 8.4 and (2) a certificate, dated the effective date of such transaction, signed by an Authorized Representative of the Company and an authorized officer of the surviving, resulting or transferee entity, as the case may be, or the transferee of its assets, as the case may be, to the effect that immediately after the consummation of the transaction and after giving effect thereto, no Event of Default exists under this Lease Agreement and no event exists which, with notice or lapse of time or both, would become such an Event of Default (unless waived by the Agency in writing).

SECTION 8.5. AGREEMENT TO PROVIDE INFORMATION. The Company agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified such information concerning the Company, its finances and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation.

SECTION 8.6. BOOKS OF RECORD AND ACCOUNT; COMPLIANCE CERTIFICATES. (A) The Company agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all business and affairs of the Company.

(B) As soon as possible after the end of each fiscal year of the Company, but in any event within thirty (30) days after such date, the Company shall furnish to the Agency a certificate of an

Authorized Representative of the Company stating that no Event of Default hereunder has occurred or is continuing or, if any Event of Default exists, specifying the nature and period of existence thereof and what action the Company has taken or proposes to take with respect thereto.

SECTION 8.7. COMPLIANCE WITH APPLICABLE LAWS. (A) The Company agrees, for the benefit of the Agency, that it will, during the term of this Lease Agreement, promptly comply with all Applicable Laws.

(B) Notwithstanding the provisions of subsection (A) of this Section 8.7, the Company may in good faith actively contest the validity or the applicability of any Applicable Law, provided that the Company (1) first shall have notified the Agency in writing of such contest, (2) is not in default under any of the Basic Documents, (3) shall have set aside adequate reserves for any such requirement, and (4) demonstrates to the reasonable satisfaction of the Agency that noncompliance with such Applicable Law will not subject the Project Facility or any part thereof to loss or forfeiture. Otherwise, the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

(C) Notwithstanding the provisions of subsection (B) of this Section 8.7, if the Agency or any of its members, officers, agents (other than the Company), servants or employees may be liable for prosecution for failure to comply therewith, the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

SECTION 8.8. DISCHARGE OF LIENS AND ENCUMBRANCES. The Company hereby agrees not to create or suffer to be created any Lien on any Properties of the Agency (other than the Project Facility) or on any funds of the Agency applicable to the Project Facility.

SECTION 8.9. PERFORMANCE OF THE COMPANY'S OBLIGATIONS. Should the Company fail to make any payment or to do any act as herein provided, the Agency may, but need not, without notice to or demand on the Company and without releasing the Company from any obligation herein, make or do the same, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company or the Agency, and paying all fees, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Agency in connection therewith, and the Company shall pay immediately upon demand all sums so incurred or expended by the Agency under the authority hereof, together with interest thereon at the Default Interest Rate or the maximum rate permitted by law, whichever is less.

SECTION 8.10. DEPRECIATION DEDUCTIONS AND TAX CREDITS. The parties agree that as between them the Company shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any portion of the Project Facility pursuant to Sections 167 and 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Project Facility which constitutes "Section 38 Property" and to all other state and/or federal income tax deductions and credits which may be available with respect to the Project Facility.

SECTION 8.11. EMPLOYMENT OPPORTUNITIES. (A) The Company shall ensure that all employees and applicants for employment opportunities created as a result of the completion of the Project are afforded equal employment opportunities without discrimination.

(B) Pursuant to Section 858-b of the Act, except as otherwise provided by collective bargaining contracts or agreements, the Company agrees that except as otherwise provided by collective bargaining agreements where applicable, (1) to list all new employment opportunities created as a result of the Project with the New York State Department of Labor, Community Services Division ("NYS DOL") and with the administrative entity (collectively with NYSDOL, the "JTPA Referral Entities") of the service delivery area

created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project Facility is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective June 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)) and (2), where practicable, to first consider for such new employment opportunities persons eligible to participate in federal JTPA programs who shall be referred by the JTPA Referral Entities.

(C) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to annually file with the Agency an employment plan in substantially the form attached hereto as Exhibit E.

(D) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to file with the Agency, on an annual basis, reports regarding the number of people employed at the Project Facility and certain other matters, the initial said annual employment report to be in substantially the form annexed hereto as Exhibit F.

SECTION 8.12. IDENTIFICATION OF THE EQUIPMENT. All Equipment which is or may become part of the Project Facility pursuant to the provisions of this Lease Agreement shall be properly identified by the Company by such appropriate records, including computerized records.

ARTICLE IX

ASSIGNMENTS; MERGER OF THE AGENCY

SECTION 9.1. ASSIGNMENT OF THE LEASE AGREEMENT. Except as otherwise provided in Section 8.4 hereof, this Lease Agreement may not be assigned by the Company, in whole or in part, without the prior written consent of the Agency.

SECTION 9.2. MERGER OF THE AGENCY. (A) Nothing contained in this Lease Agreement shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to, any other public benefit corporation of the State or political subdivision thereof which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger or assignment, the due and punctual performance and observance of all of the agreements and conditions of this Lease Agreement and other Basic Documents to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests under this Lease Agreement shall be assigned.

(B) As of the date of any such consolidation, merger or assignment, the Agency shall give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger or assignment as the Company may reasonably request.

SECTION 9.3. SALE OR LEASE OF THE PROJECT FACILITY. (A) (1) Except for subleases of portions of the Project Facility entered into by the Company in the ordinary course of business and in compliance with the terms of this Lease Agreement and the other Basic Documents and as otherwise provided herein, the Company may not sell, lease, transfer, convey or otherwise dispose of the Project Facility or any part thereof without the prior written consent of the Agency, which consent shall not be unreasonably withheld or delayed; provided, however, that the prior written consent of the Agency shall not be required when the Company proposes to sublease a portion of the Project Facility in the ordinary course of business and such sublease is consistent with Section 3.2 hereof and the provisions of Section 854(4) and Section 862(1) of the Act. In the event the Company proposes to sell and/or transfer a portion or all of its directly or indirectly held membership interests to a new member which is not an affiliate of the Company, the Company shall obtain the prior written consent of the Agency.

(2) For purposes of Section 9.3(A) of this Lease Agreement, the term "ordinary course of business" shall include any leasing or subleasing of all or a portion of the Project Facility by the Company in connection with the provision or structuring of tax credit financing relating to the Project.

(B) Notwithstanding anything to the contrary contained in this Lease Agreement, in any instance after the Completion Date where the Company reasonably determines that any portion of the Project Facility has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such portion of the Project Facility and may sell, trade in, exchange or otherwise dispose of the same, as a whole or in part, without the prior written consent of the Agency, provided that such removal will not materially impair the value of the Project Facility as collateral and provided the same is forthwith replaced with similar items. At the request of the Company, the Agency shall execute and deliver to the Company all instruments necessary or appropriate to enable the Company to sell or otherwise dispose of any such item of Property free from the Liens of the Basic Documents. The Company shall pay

all costs and expenses (including counsel fees) incurred in transferring title to and releasing from the Liens of the Basic Documents any item of Property removed pursuant to this Section 9.3.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

SECTION 10.1. EVENTS OF DEFAULT DEFINED. (A) The following shall be “Events of Default” under this Lease Agreement, and the terms “Event of Default” or “default” shall mean, whenever they are used in this Lease Agreement, any one or more of the following events:

(1) A default by the Company in the due and punctual payment of the amounts specified to be paid pursuant to Section 5.3 or Section 6.6 hereof, and the continuance thereof for a period of ten (10) business days after written notice thereof is given by the Agency to the Company.

(2) A default in the performance or observance of any other of the covenants, conditions or agreements on the part of the Company in this Lease Agreement and the continuance thereof for a period of thirty (30) days after written notice thereof is given by the Agency to the Company, provided that, if such default is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Company to commence to cure within such thirty (30) day period and to prosecute the same with due diligence.

(3) The occurrence of an “Event of Default” under any other Basic Document.

(4) Any representation or warranty made by the Company herein or in any other Basic Document proves to have been false at the time it was made.

(5) The Company shall generally not pay its debts as such debts become due or admits its inability to pay its debts as they become due.

(6) The Company shall conceal, remove or permit to be concealed or removed any part of its Property, with intent to hinder, delay or defraud its creditors, or any one of them, or shall make or suffer a transfer of any of its Property which is fraudulent under any bankruptcy, fraudulent conveyance or similar law; or shall make any transfer of its Property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or shall suffer or permit, while insolvent, any creditor to obtain a Lien upon any of its Property through legal proceedings or distraint which is not vacated within thirty (30) days from the date thereof.

(7) (a) The filing by the Company (as debtor) of a voluntary petition under Title 11 of the United States Code or any other federal or state bankruptcy statute, (b) the failure by the Company within ninety (90) days to lift any execution, garnishment or attachment of such consequence as will impair the Company’s ability to carry out its obligations hereunder, (c) the commencement of a case under Title 11 of the United States Code against the Company as the debtor or commencement under any other federal or state bankruptcy statute of a case, action or proceeding against the Company and continuation of such case, action or proceeding without dismissal for a period of ninety (90) days, (d) the entry of an order for relief by a court of competent jurisdiction under Title 11 of the United States Code or any other federal or state bankruptcy statute with respect to the debts of the Company, or (e) in connection with any insolvency or bankruptcy case, action or proceeding, appointment by final order, judgment or decree of a court of competent jurisdiction of a receiver or trustee of the whole or a substantial portion of the Property of the Company, unless such order, judgment or decree is vacated, dismissed or dissolved within ninety (90) days of such appointment.

(8) The imposition of a Lien on the Project Facility other than a Permitted Encumbrance.

(9) The removal of the Project Facility, or any portion thereof, outside St. Lawrence County, New York, without the prior written consent of the Agency, other than in connection with a removal under Section 9.3(B) hereof.

(B) Notwithstanding the provisions of Section 10.1(A) hereof, if by reason of force majeure (as hereinafter defined) either party hereto shall be unable, in whole or in part, to carry out its obligations under this Lease Agreement and if such party shall give notice and full particulars of such force majeure in writing to the other party and to the Agency within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Lease Agreement of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The suspension of such obligations for such period pursuant to this subsection (B) shall not be deemed an Event of Default under this Section 10.1. Notwithstanding anything to the contrary in this subsection (B), an event of force majeure shall not excuse, delay or in any way diminish the obligations of the Company to make the payments required by Sections 4.1(H), 5.3, 6.2 and 6.6 hereof, to obtain and continue in full force and effect the insurance required by Article VI hereof, to provide the indemnity required by Sections 3.3 and 8.2 hereof and to comply with the provisions of Sections 2.2(G), 6.6, 8.2, 8.4, 8.5 and 8.7(C) hereof. The term "force majeure" as used herein shall include acts outside of the control of the Agency and the Company, including but not limited to acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of any Governmental Authority or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, partial or entire failure of utilities, or any other cause or event not reasonably within the control of the party claiming such inability. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout or other industrial disturbances by acceding to the demands of the opposing party or parties.

SECTION 10.2. REMEDIES ON DEFAULT. (A) Whenever any Event of Default hereunder shall have occurred, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable, (a) all amounts payable pursuant to Section 5.3 hereof, and (b) all other payments due under this Lease Agreement or any of the other Basic Documents; or

(2) subject to Permitted Encumbrances, re-enter and take possession of the Project Facility, enforce or terminate this Lease Agreement, sell the Project Facility, subject to Permitted Encumbrances, at public or private sale, as a whole or piecemeal, for such consideration as may be deemed appropriate in the circumstances, and hold the Company liable for the amount, if any, by which the aggregate unpaid amounts due hereunder exceed the Net Proceeds received upon such sale, or manage and operate the Project Facility, collect all or any rents accruing therefrom, let or relet the Project Facility or any part thereof for the Agency's own account or the account of the Company, holding the Company liable for payments due up to the effective date of such leasing and for the difference in the rent and other amounts paid by the lessee pursuant to such lease and the rental payments and other amounts payable by the Company hereunder, cancel or modify leases, evict tenants, bring or defend any suits in connection with the possession of the Project Facility in

its own name or in the Company's name, make repairs as the Agency deems appropriate, and perform such other acts in connection with the management and operation of the Project Facility as the Agency, in its discretion, may deem proper; or

(3) terminate this Lease Agreement and convey to the Company all the Agency's right, title and interest in and to the Project Facility (The conveyance of the Agency's right, title and interest in and to the Project Facility shall be effected by the recording by the Agency of the Termination of Lease to Agency. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from any such transfer of title); or

(4) take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due or thereafter to become due hereunder and to enforce the obligations, agreements or covenants of the Company under this Lease Agreement.

(B) No action taken pursuant to this Section 10.2 (including repossession of the Project Facility) shall relieve the Company from its obligations to make all payments required by this Lease Agreement and the other Basic Documents.

(C) In the event that the Company fails to prepare at the request of the Agency the instruments described in Section 10.2(A)(3) hereof, the Company agrees that the Agency may prepare or cause to prepare such instruments. The Company hereby appoints the Agency as its true and lawful agent to execute, deliver and record all such instruments necessary to provide for the termination of this Lease Agreement and the conveyance to the Company all the Agency's right, title and interest in and to the Project Facility. The Company acknowledges that the foregoing appointment is coupled with an interest and is irrevocable.

SECTION 10.3. REMEDIES CUMULATIVE. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Lease Agreement or any other Basic Document now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article X, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

SECTION 10.4. AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES. In the event the Company should default under any of the provisions of this Lease Agreement and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the reasonable fees of such attorneys and such other expenses so incurred, whether an action is commenced or not.

SECTION 10.5. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XI

OPTIONS AND OBLIGATION TO PURCHASE

SECTION 11.1. EARLY TERMINATION OF THE LEASE AGREEMENT. The Company shall have the option to terminate this Lease Agreement prior to the termination date specified in Section 5.2 hereof by filing with the Agency a certificate signed by an Authorized Representative of the Company stating the Company's intention to do so pursuant to this Section 11.1.

SECTION 11.2. OBLIGATION TO SELL AND PURCHASE THE PROJECT FACILITY. Contemporaneously with the termination of this Lease Agreement in accordance with Section 5.2 or Section 11.1 hereof, the Agency shall sell and the Company shall purchase all the Agency's right, title and interest in and to the Project Facility for a purchase price equal to the sum of One Dollar (\$1.00), plus payment of all sums due and payable to the Agency or any other Person pursuant to this Lease Agreement and the other Basic Documents. The obligation of the Agency under this Section 11.2 to convey the Project Facility to the Company will be subject to there being no Event of Default existing hereunder or under the Payment in Lieu of Tax Agreement or under any other Basic Document, or any other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default, unless the same is cured in connection with such occurrence pursuant to the terms contained herein.

SECTION 11.3. CONVEYANCE ON PURCHASE OF THE PROJECT FACILITY. (A) At the closing of any purchase of the Project Facility pursuant to Section 11.2 hereof, the Agency shall, upon the satisfaction of the conditions set forth in Section 11.1 and Section 11.2 hereof, as appropriate, deliver to the Company all necessary documents (1) to convey to the Company all the Agency's right, title and interest in and to the Property being purchased, as such property then exists, subject only to the following: (a) any Liens or title defects to which title to such Property was subject when conveyed to the Agency, (b) any Liens created at the request of the Company or to the creation of which the Company consented, (c) any Permitted Encumbrances, and (d) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease Agreement or arising out of an Event of Default; and (2) to release and convey to the Company all of the Agency's rights and interest in and to any rights of action or any net proceeds of insurance settlements or Condemnation awards with respect to the Project Facility (but not including amounts relating to the Unassigned Rights).

(B) The termination of the Agency's leasehold interest in the Project Facility created pursuant to the Lease to Agency shall be effected by the execution and delivery by the Agency to the Company of the Termination of Lease to Agency (an unexecuted copy of which is attached hereto as Exhibit C and by this reference made a part hereof). The termination of this Lease Agreement shall be effected by the execution and delivery of the Company and the Agency of the Termination of Lease Agreement (an unexecuted copy of which is attached hereto as Exhibit D and by this reference made a part hereof). The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such transfers of title.

(C) The Company agrees to prepare the Termination of Lease to Agency and/or the Termination of Lease Agreement and all schedules thereto, together with all equalization and assessment forms and other necessary documentation, and to forward same to the Agency at least fifteen (15) days prior to the date that the Project Facility or any portion thereof is to be conveyed to the Company.

(D) The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from the transfers contemplated by this Section 11.3.

(E) This Lease Agreement shall survive the transfer of the Project Facility to the Company pursuant to this Section 11.3 and shall remain in full force and effect until all of the Indebtedness shall have been paid in full, and thereafter the obligations of the Company shall survive as set forth in Section 12.8 hereof.

(F) Upon the payment in full of all Indebtedness under or secured by this Lease Agreement, and notwithstanding the survival of certain obligations of the Company as described in Section 12.8 hereof, the Agency shall upon the request of the Company execute and deliver to the Company such documents as the Company may reasonably request, in recordable form if so requested, to evidence the termination and release of all Liens granted to the Agency hereunder.

ARTICLE XII

MISCELLANEOUS

SECTION 12.1. NOTICES. (A) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (1) sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other means as shall provide the sender with documentary evidence of such delivery, or (2) delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

ASA Gouverneur NY Solar II LLC
c/o Amp Energy
1550 Wewatta Street
Denver, Colorado 80202
Attention: Terrence Rasmussen, Director of Development

WITH A COPY TO:

Couch White, LLP
540 Broadway – 7th Floor
Albany, New York 12207
Attention: Joshua Sabo, Esq.

IF TO THE AGENCY:

St. Lawrence County Industrial Development Agency
19 Commerce Lane – Suite 1
Canton, New York 13617
Attention: Chief Executive Officer

WITH A COPY TO:

Hodgson Russ LLP
677 Broadway, Suite 401
Albany, New York 12207
Attention: Christopher C. Canada, Esq.

(C) The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 12.2. BINDING EFFECT. This Lease Agreement shall inure to the benefit of the Agency and the Company and shall be binding upon the Agency, the Company and, as permitted by this Lease Agreement, their respective successors and assigns.

SECTION 12.3. SEVERABILITY. If any one or more of the covenants or agreements provided herein on the part of the Agency or the Company to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Lease Agreement.

SECTION 12.4. AMENDMENT. This Lease Agreement may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the parties hereto.

SECTION 12.5. EXECUTION OF COUNTERPARTS. This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 12.6. APPLICABLE LAW. This Lease Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State.

SECTION 12.7. RECORDING AND FILING. The Lease to Agency (or a memorandum thereof) and this Lease Agreement (or a memorandum hereof), and financing statements relating to the security interests created and/or assigned thereby, shall be recorded or filed, as the case may be, by the Agency (but at the sole cost and expense of the Company) in the office of the County Clerk of St. Lawrence County, New York, or in such other office as may at the time be provided by law as the proper place for the recordation or filing thereof.

SECTION 12.8. SURVIVAL OF OBLIGATIONS. (A) The obligations of the Company to make the payments required by Sections 5.3 and 6.6 hereof and to provide the indemnity required by Sections 3.3 and 8.2 hereof shall survive the termination of this Lease Agreement, and all such payments after such termination shall be made upon demand of the party to whom such payment is due.

(B) The obligations of the Company to the Agency with respect to the Unassigned Rights shall survive the termination of this Lease Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the Unassigned Rights may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents or employees, relating thereto.

SECTION 12.9. TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING. The Table of Contents and the headings of the several Sections in this Lease Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Lease Agreement.

SECTION 12.10. NO RECOURSE; SPECIAL OBLIGATION. (A) The obligations and agreements of the Agency contained herein and in the other Basic Documents and any other instrument or document executed in connection herewith or therewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Company), servant or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company), servants and employees 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 herein and therein shall not constitute or give rise to an obligation of the State of New York or St. Lawrence County, New York, and neither the State of New York nor St. Lawrence County, New York 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 payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility (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 (1) 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 days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten day period) or failed to respond within such notice period, (2) 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 (3) 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 members, officers, agents (other than the Company) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend and hold harmless the Agency and its members, officers, agents (other than the Company) and employees against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than the Company) and employees against all liability expected to be incurred as a result of compliance with such request.

SECTION 12.11. SUBORDINATION TO THE MORTGAGE. This Lease Agreement and all rights of the Company and the Agency hereunder are and shall be subordinate to the Lien of the Mortgage on the Project Facility. The subordination of this Lease Agreement to the Mortgage shall be automatic, without the execution of any further subordination agreement by the Company or the Agency. Nonetheless, if the Lender requires a further written subordination agreement, the Company and the Agency hereby agree to execute, acknowledge and deliver the same.

IN WITNESS WHEREOF, the Agency and the Company have caused this Lease Agreement to be executed in their respective names by their respective duly authorized officers, all as of the day and year first above written.

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____

Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC

By: _____


Carson Brown
Authorized Signatory

IN WITNESS WHEREOF, the Agency and the Company have caused this Lease Agreement to be executed in their respective names by their respective duly authorized officers, all as of the day and year first above written.

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC

By 
Carson Brown
Authorized Signatory

STATE OF NEW YORK)
)ss:
COUNTY OF ST. LAWRENCE)

On the 6th day of May, in the year 2022, before me, the undersigned, personally appeared PATRICK J. KELLY, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

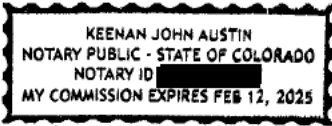



Notary Public

Lori A. Sibley
Notary Public, State of New York
[Redacted]
Qualified in St. Lawrence County
Commission Expires September 30, 2025

STATE OF COLORADO)
)ss:
COUNTY OF DENVER)

On the 6TH day of June, in the year 2022, before me, the undersigned, personally appeared CARSON BROWN, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.





Notary Public

APPENDIX A

SCHEDULE OF DEFINITIONS

The following words and terms used in the attached document shall have the respective meanings set forth below unless the context or use indicates another or different meaning or intent:

“Act” means Title 1 of Article 18-A of the General Municipal Law of the State, as amended from time to time, together with Chapter 358 of the 1971 Laws of the State, as amended, constituting Section 914 of the General Municipal Law of the State, as amended from time to time.

“Affected Tax Jurisdiction” shall have the meaning assigned to such term in Section 854(16) of the Act), which defines such term, in the context of the Project, to mean any village, town, city, county, and school district in which the Project Facility is located.

“Affected Tax Jurisdictions” means all Affected Tax Jurisdictions in which the Project Facility is located.

“Agency” means (A) St. Lawrence County Industrial Development Agency and its successors and assigns, and (B) any public benefit corporation or other public corporation resulting from or surviving any consolidation or merger to which St. Lawrence County Industrial Development Agency or its successors or assigns may be a party.

“Applicable Laws” means all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all Governmental Authorities, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to or affect the Project Facility or any part thereof or the conduct of work on the Project Facility or any part thereof or to the operation, use, manner of use or condition of the Project Facility or any part thereof (the applicability of such statutes, codes, laws, acts, ordinances, orders, rules, regulations, directions and requirements to be determined both as if the Agency were the owner of the Project Facility and as if the Company and not the Agency were the owner of the Project Facility), including but not limited to (1) applicable building, zoning, environmental, planning and subdivision laws, ordinances, rules and regulations of Governmental Authorities having jurisdiction over the Project Facility, (2) restrictions, conditions or other requirements applicable to any permits, licenses or other governmental authorizations issued with respect to the foregoing, and (3) judgments, decrees or injunctions issued by any court or other judicial or quasi-judicial Governmental Authority.

“Approving Resolution” means the resolution duly adopted by the Agency on October 9, 2020, authorizing and directing the undertaking and completion of the Project and the execution and delivery of the Basic Documents to which the Agency is a party.

“Authorized Representative” means (A) with respect to the Agency, its Chairperson or Vice-Chairperson, or such other Person or Persons at the time designated to act on behalf of the Agency by written certificate furnished to the Company containing the specimen signature of each such Person and signed on behalf of the Agency by its Chairperson, Vice Chairperson or such other person as may be authorized by resolution of the Agency to act on behalf of the Agency, and (B) with respect to the Company, its chief executive officer or chief financial officer, or such other Person or Persons at the time designated to act on behalf of the Company by written certificate furnished to the Agency containing the specimen signature of each such Person and signed on behalf of the Company by its chief executive officer or chief

financial officer, or such other person as may be authorized by the member of the Company to act on behalf of the Company.

“Basic Documents” means the Underlying Lease, the Lease Agreement, the Project Agreement, the Payment in Lieu of Tax Agreement, the Recapture Agreement and all other instruments and documents related thereto and executed in connection therewith, and any other instrument or document supplemental thereto, each as amended from time to time.

“Business Day” means a day on which banks located in the Town of Gouverneur, St. Lawrence County, New York are not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

“Closing” means the closing at which the Basic Documents are executed and delivered by the Company and the Agency.

“Closing Date” means the date of the Closing.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations of the United States Treasury Department promulgated thereunder.

“Company” means ASA Gouverneur NY Solar II LLC, a limited liability company duly organized and existing under the laws of the State of Delaware, and its successors and assigns, to the extent permitted pursuant to Section 8.4 of the Lease Agreement.

“Completion Date” means the earlier to occur of (A) November 30, 2022 or (B) such date as shall be certified by the Company to the Agency as the date of completion of the Project pursuant to Section 4.2 of the Lease Agreement, or (C) such earlier date as shall be designated by written communication from the Company to the Agency as the date of completion of the Project.

“Condemnation” means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any Governmental Authority.

“Default Interest Rate” means a per annum rate of interest equal to twelve percent (12%) per annum, or the maximum rate of interest permitted by law, whichever is less.

“Equipment” means all equipment, fixtures, machines, building materials and items of personal property and all appurtenances intended to be acquired in connection with the completion of the Project prior to the Completion Date with the proceeds of any payment made by the Company pursuant to Section 4.1(H) of the Lease Agreement, and such substitutions and replacements therefor as may be made from time to time pursuant to the Lease Agreement, including without limitation, all the Property described in Exhibit B attached to the Lease Agreement.

“Event of Default” means, with respect to any particular Basic Document, any event specified as an Event of Default pursuant to the provisions thereof.

“Facility” means all buildings (or portions thereof), improvements, structures and other related facilities, and improvements thereto, (A) located on the Land, (B) financed with the proceeds of any payment made by the Company pursuant to Section 4.1(H) of the Lease Agreement, and (C) not constituting a part of the Equipment, all as they may exist from time to time.

“Financial Assistance” shall have the meaning assigned to such term in the fifth recital clause to the Lease Agreement.

“Governmental Authority” means the United States of America, the State, any other state and any political subdivision thereof, and any agency, department, commission, court, board, bureau or instrumentality of any of them.

“Gross Proceeds” means one hundred percent (100%) of the proceeds of the transaction with respect to which such term is used, including, but not limited to, the settlement of any insurance or Condemnation award.

“Hazardous Materials” shall mean all hazardous materials including, without limitation, any flammable explosives, radioactive materials, radon, asbestos, urea formaldehyde foam insulation, polychlorinated byphenyls, petroleum, petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), Articles 15 or 27 of the State Environmental Conservation Law, or in the regulations adopted and publications promulgated pursuant thereto, or any other Federal, state or local environmental law, ordinance, rule or regulation.

“Indebtedness” means (1) the monetary obligations of the Company to the Agency and its members, officers, agents, servants and employees under the Lease Agreement and the other Basic Documents, (2) the monetary obligations of the Company to the Affected Tax Jurisdictions under the Payment in Lieu of Tax Agreement and the other Basic Documents, and (3) all interest accrued and accruing on any of the foregoing.

“Independent Counsel” means an attorney or firm of attorneys duly admitted to practice law before the highest court of any state and not a full-time employee of the Company or the Agency.

“Independent Engineer” means an engineer or architect or firm of engineers or architects duly admitted to practice engineering or architecture in the state and not a full-time employee of the Company or the Agency.

“Land” means the Premises, constituting the leasehold interest in real property created by the Lease to Agency, as more particularly described on Exhibit A attached to the Lease Agreement.

“Lease Agreement” means the lease agreement dated as of June 1, 2022 by and between the Agency, as landlord, and the Company, as tenant, pursuant to which, among other things, the Agency has leased the Project Facility to the Company, as said lease agreement may be amended or supplemented from time to time.

“Leased Premises” means the Property leased to the Agency pursuant to the Lease to Agency.

“Lender” means if the Company intends to finance the Project with borrowed money, any financial institution or other person or entity that from time to time provides secured financing for some or all of the Project, the Project Facility, or operation of the Project Facility, collectively with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives.

“Lien” means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including but not limited to a security interest arising from a mortgage, a security agreement, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes or a judgment against the Company. The term “Lien” includes reservations, exceptions, encroachments, projections, easements, rights of way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including but not limited to mechanics’, materialmen’s, warehousemen’s and carriers’ liens and other similar encumbrances affecting real property. For purposes of the Basic Documents, a Person shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

“Loan” means a loan to be made by the Lender to the Company and to be secured by, among other things, the Mortgage.

“Loan Documents” means, collectively, a Mortgage and any building loan and other agreements reasonably requested by the Lender in connection with any Loan.

“Mortgage” means if the Company intends to finance the Project with borrowed money, one or more mortgages and any other security documents and related documents from the Agency and the Company to the Lender, which Mortgage will grant in favor of the Lender liens on and security interests in the Mortgaged Property to secure any Loan, as said mortgage or mortgages may be amended or supplemented from time to time.

“Mortgaged Property” means all Property which may from time to time be subject to the Lien of a Mortgage.

“Net Proceeds” means so much of the Gross Proceeds with respect to which that term is used as remain after payment of all fees for services, expenses, costs and taxes (including attorneys’ fees and expenses) incurred in obtaining such Gross Proceeds.

“Payment in Lieu of Tax Agreement” means the payment in lieu of tax agreement dated as of June 1, 2022 by and between the Agency and the Company, pursuant to which the Company has agreed to make payments in lieu of taxes with respect to the Project Facility, as such agreement may be amended or supplemented from time to time.

“Permitted Encumbrances” means (A) utility, access and other easements, rights of way, restrictions, encroachments and exceptions that exist on the Closing Date and benefit or do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (B) mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar Liens, to the extent permitted by Section 8.8 of the Lease Agreement, (C) Liens for taxes, assessments and utility charges, to the extent permitted by Section 6.2(B) of the Lease Agreement, (D) any Lien on the Project Facility obtained through any Basic Document, (E) the Mortgage, and (F) any Lien requested by the Company in writing and consented to by the Agency, which consent of the Agency shall not be unreasonably withheld or delayed.

“Person” means an individual, partnership, corporation, limited liability company, trust, unincorporated organization or Governmental Authority.

“Plans and Specifications” means the description of the Project appearing in the fifth recital clause to the Lease Agreement.

“Premises” means the Leased Premises.

“Project” shall have the meaning set forth in the fifth recital clause to the Lease Agreement.

“Project Agreement” means the project agreement dated as of June 1, 2022 by and between the Agency and the Company, pursuant to which the Agency has agreed to grant certain Financial Assistance to the Company, subject to certain conditions, as such agreement may be amended or supplemented from time to time.

“Project Facility” means, collectively, the Land, the Facility and the Equipment.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

“Real Property Tax Exemption Form” means a New York State Board of Real Property Services Form RP-412-a (Industrial Development Agencies - Application for Real Property Tax Exemption) relating to the Project Facility.

“Recapture Agreement” means the recapture agreement dated as of June 1, 2022 by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain benefits constituting a part of the Financial Assistance relating to the Project, as said recapture agreement may be amended or supplemented from time to time.

“SEQRA” means Article Eight of the Environmental Conservation Law of the State and the statewide regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York.

“State” means the State of New York.

“Term” means the term of the Underlying Lease.

“Termination of Lease Agreement” means a termination of lease agreement by and between the Company, as tenant, and the Agency, as landlord, intended to evidence the termination of the lease agreement, substantially in the form attached as Exhibit D to the Lease Agreement.

“Termination of Lease to Agency” means the termination of the Lease to Agency from the Agency to the Company, evidencing termination of the Lease to Agency, substantially in the form attached as Exhibit C to the Lease Agreement, which termination is intended, upon certain terminations of the Lease Agreement, to terminate the leasehold interest of the Agency created pursuant to the Lease to Agency.

“Unassigned Rights” means (A) the rights of the Agency granted pursuant to Sections 2.2, 3.2, 3.3, 4.1(B), 4.1(D), 4.1(E)(2), 4.1(F), 4.1(G), 5.2(A), 5.3(B), 5.4(B), 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 7.1, 7.2, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 9.1, 9.3, 11.1, 12.4, 12.8 and 12.10 of the Lease Agreement, (B) the moneys due and to become due to the Agency for its own account or the members, officers, agents (other than the Company) and employees of the Agency for their own account pursuant to Sections 2.2(F), 3.3, 4.1, 5.3(B)(2), 5.3(C), 6.4(B), 8.2, 10.2 and 10.4 of the Lease Agreement, (C) the moneys due as payments in lieu of taxes pursuant to Section 6.6 of the Lease Agreement and the Payment in Lieu of Tax Agreement, the payments due from the Company pursuant to the Recapture Agreement and (D) the right to enforce the foregoing pursuant to Article X of the Lease Agreement.

“Underlying Lease” or “Lease to Agency” means the lease to agency dated as of June 1, 2022 by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company has conveyed a leasehold interest in the Premises to the Agency, as said lease to agency may be amended or supplemented from time to time.

EXHIBIT A

DESCRIPTION OF THE LAND

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE TOWN OF GOUVERNEUR, COUNTY OF ST. LAWRENCE, STATE OF NEW YORK AND BEING TAX PARCEL NO. 159.00-1-13 BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE SOUTHERLY HIGHWAY BOUNDARY OF THE EXISTING U.S. HIGHWAY 11 (WIDTH VARIES) AT ITS INTERSECTION WITH THE DIVISION LINE BETWEEN THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) ON THE EAST AND THE LANDS NOW OR FORMERLY OF LORRIE TURNER AS TRUSTEE, CLYDE TURNER AS TRUSTEE (TAX NO. 159.004-3-3.1) ON THE WEST; THENCE SOUTH $34^{\circ}11'44''$ EAST ALONG SAID DIVISION LINE A DISTANCE OF 598.92 FEET TO A POINT; THENCE THROUGH THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) NORTH $55^{\circ}48'16''$ EAST, A DISTANCE OF 709.10 FEET TO THE POINT OF BEGINNING, THENCE THROUGH THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) THE FOLLOWING TWELVE (12) COURSED AND DISTANCES:

- 1) NORTH $54^{\circ}52'47''$ EAST, A DISTANCE OF 216.04 FEET TO A POINT; THENCE
- 2) SOUTH $35^{\circ}07'13''$ EAST, A DISTANCE OF 1199.30 FEET TO A POINT; THENCE
- 3) SOUTH $43^{\circ}35'53''$ WEST, A DISTANCE OF 762.46 FEET TO A POINT; THENCE
- 4) NORTH $88^{\circ}32'38''$ WEST, A DISTANCE OF 121.34 FEET TO A POINT; THENCE
- 5) NORTH $34^{\circ}11'46''$ WEST, A DISTANCE OF 700.80 FEET TO A POINT; THENCE
- 6) NORTH $54^{\circ}52'47''$ EAST, A DISTANCE OF 414.45 FEET TO A POINT; THENCE
- 7) NORTH $05^{\circ}29'28''$ WEST, A DISTANCE OF 411.37 FEET TO A POINT; THENCE
- 8) NORTH $35^{\circ}07'13''$ WEST, A DISTANCE OF 217.86 FEET TO THE POINT OF BEGINNING.

BEING 17.235 ACRES, MORE OR LESS.

EXHIBIT B

DESCRIPTION OF THE EQUIPMENT

All equipment, fixtures, machines, building materials and items of personal property and all appurtenances (A) acquired, constructed and/or intended to be installed and/or to be acquired, constructed or installed prior to the Completion Date (as defined in the hereinafter defined Lease Agreement) in connection with the acquisition, construction and installation of the ASA Gouverneur NY Solar II LLC Project (the "Project") of St. Lawrence County Industrial Development Agency (the "Agency") located on the real property described on Exhibit A hereto (the "Land"), said Project to be acquired, constructed and installed by ASA Gouverneur NY Solar II LLC (the "Company") as agent of the Agency pursuant to a lease agreement dated as of June 1, 2022 (the "Lease Agreement") by and between the Agency and the Company and (B) now or hereafter attached to, contained in or used in connection with the Land or placed on any part thereof, though not attached thereto, including but not limited to the following:

- (1) Solar panels, arrays and other equipment necessary to construct a 4.0 MW-ac ground mount solar energy system; and
- (2) Together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

EXHIBIT C

FORM OF TERMINATION OF LEASE TO AGENCY

THIS TERMINATION OF LEASE TO AGENCY (the "Termination of Lease to Agency") dated as of _____, _____, by and between ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized under the laws of the State of New York having an office for the transaction of business located at 19 Commerce Lane – Suite 1, Canton, New York (the "Agency"), and ASA GOUVERNEUR NY SOLAR II LLC, a limited liability company organized and existing under the laws of the State of Delaware (the "State") having an office for the transaction of business located at 1550 Wewatta Street, Denver, Colorado (the "Company").

WITNESSETH:

WHEREAS, the Company and the Agency entered into a certain lease to agency dated as of June 1, 2022 (the "Lease to Agency") pursuant to which the Agency was granted a leasehold interest in the parcel of the land more particularly described in Exhibit A attached thereto (the "Land") and in and to all those buildings, improvements, structures and other related facilities affixed or attached to the Land now or in the future; and

WHEREAS, pursuant to Section 11.3 of a lease agreement dated as of June 1, 2022 (the "Lease Agreement") between the Company and the Agency, the Company and the Agency further agreed that the Lease to Agency would be terminated upon the satisfaction of the conditions set forth in Section 11.1 and Section 11.2 of the Lease Agreement, as appropriate; and

WHEREAS, the conditions set forth in Section 11.1 and Section 11.2 of the Lease Agreement, as appropriate, have been satisfied on or before the date hereof.

NOW, THEREFORE, it is hereby agreed that the Lease to Agency is terminated as of the dated date hereof.

The Company hereby agrees to indemnify the Agency as to any claims that have arisen heretofore or shall arise hereafter under the Lease to Agency and this Termination of Lease to Agency.'

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, the Agency and the Company, for the purposes above set forth, have caused this Termination of Lease to Agency to be executed and delivered by their duly authorized officers, all as of the day and year first above written.

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC

By: _____
Carson Brown
Authorized Signatory

STATE OF NEW YORK)
)ss:
COUNTY OF ST. LAWRENCE)

On the ____ day of _____, in the year 20____, before me, the undersigned, personally appeared PATRICK J. KELLY, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF)
) Ss.:
COUNTY OF)

On the ____ day of _____, in the year _____, 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

EXHIBIT A

DESCRIPTION OF THE LAND

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE TOWN OF GOUVERNEUR, COUNTY OF ST. LAWRENCE, STATE OF NEW YORK AND BEING TAX PARCEL NO. 159.00-1-13 BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE SOUTHERLY HIGHWAY BOUNDARY OF THE EXISTING U.S. HIGHWAY 11 (WIDTH VARIES) AT ITS INTERSECTION WITH THE DIVISION LINE BETWEEN THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) ON THE EAST AND THE LANDS NOW OR FORMERLY OF LORRIE TURNER AS TRUSTEE, CLYDE TURNER AS TRUSTEE (TAX NO. 159.004-3-3.1) ON THE WEST; THENCE SOUTH $34^{\circ}11'44''$ EAST ALONG SAID DIVISION LINE A DISTANCE OF 598.92 FEET TO A POINT; THENCE THROUGH THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) NORTH $55^{\circ}48'16''$ EAST, A DISTANCE OF 709.10 FEET TO THE POINT OF BEGINNING, THENCE THROUGH THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) THE FOLLOWING TWELVE (12) COURSED AND DISTANCES:

- 1) NORTH $54^{\circ}52'47''$ EAST, A DISTANCE OF 216.04 FEET TO A POINT; THENCE
- 2) SOUTH $35^{\circ}07'13''$ EAST, A DISTANCE OF 1199.30 FEET TO A POINT; THENCE
- 3) SOUTH $43^{\circ}35'53''$ WEST, A DISTANCE OF 762.46 FEET TO A POINT; THENCE
- 4) NORTH $88^{\circ}32'38''$ WEST, A DISTANCE OF 121.34 FEET TO A POINT; THENCE
- 5) NORTH $34^{\circ}11'46''$ WEST, A DISTANCE OF 700.80 FEET TO A POINT; THENCE
- 6) NORTH $54^{\circ}52'47''$ EAST, A DISTANCE OF 414.45 FEET TO A POINT; THENCE
- 7) NORTH $05^{\circ}29'28''$ WEST, A DISTANCE OF 411.37 FEET TO A POINT; THENCE
- 8) NORTH $35^{\circ}07'13''$ WEST, A DISTANCE OF 217.86 FEET TO THE POINT OF BEGINNING.

BEING 17.235 ACRES, MORE OR LESS.

EXHIBIT D

FORM OF TERMINATION OF LEASE AGREEMENT

WHEREAS, ASA GOUVERNEUR NY SOLAR II LLC (the “Company”), as tenant, and ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”), as landlord, entered into a lease agreement dated as of June 1, 2022 (the “Lease Agreement”) pursuant to which, among other things, the Agency leased the Project (as defined in the Lease Agreement) to the Company; and

WHEREAS, pursuant to the Lease Agreement, the Company and the Agency agreed that the Lease Agreement would terminate on the earlier to occur of (1) December 31, 2043 or (2) the date of the Lease Agreement shall be terminated pursuant to Article X or Article XI of the Lease Agreement; and

WHEREAS, the Company and the Agency now desires to evidence the termination of the Lease Agreement;

NOW, THEREFORE, it is hereby agreed that the Lease Agreement has terminated as of the dated date hereof; provided, however, that, as provided in Section 12.8 of the Lease Agreement, certain obligations of the Company shall survive the termination of the Lease Agreement, and the execution of this termination of lease agreement by the Agency is not intended, and shall not be construed, as a waiver or alteration by the Agency or the Company of the provisions of Section 12.8 of the Lease Agreement.

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, the Company and the Agency have signed this termination of lease agreement and caused to be dated as of the ____ day of _____, ____.

ASA GOUVERNEUR NY SOLAR II LLC

By: _____
Carson Brown
Authorized Signatory

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

STATE OF)
) Ss.:
COUNTY OF)

On the ____ day of _____, in the year _____, before me, the undersigned, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
)Ss.:
COUNTY OF ST. LAWRENCE)

On the ____ day of _____, in the year _____, before me, the undersigned, 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/they executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT E

INITIAL EMPLOYMENT PLAN

COMPANY NAME:	
ADDRESS:	
BUSINESS TYPE:	
CONTACT PERSON:	
TELEPHONE NUMBER	

Please complete the following chart describing your projected employment plan following receipt of financial assistance (the "Financial Assistance") from St. Lawrence County Industrial Development Agency (the "Agency"):

Current and Planned Full Time Occupations in Company	Current Number of Full Time Jobs Per Occupation	Estimated Hiring Dates	Will any special recruitment or training be required? Yes/No.	Estimated Number of Full Time Jobs After Completion of the Project		
				1 year	2 year	3 year

Please indicate the estimated hiring dates for the new jobs shown above and any special recruitment or training that will be required.

Are the employees of your firm currently covered by a collective bargaining agreement? Yes ____
No ____

If yes, Name and Local _____.

In the event that the Company receives any Financial Assistance from the Agency, we agree to schedule a meeting with _____ (insert name of local New York State Job Service Superintendent)

and _____ (insert name of representative of the Agency's area under the Federal Job Training Partnership Act) prior to the hiring of any employees for the purpose of supplying such information as may be requested in connection with this Employment Plan and to notify the regional office of the Department of Economic Development, in advance, of the time and place of such meeting.

Prepared by:	
Title:	
Signature:	
Date:	

EXHIBIT F

FORM OF ANNUAL EMPLOYMENT REPORT

EMPLOYMENT PLAN STATUS REPORT

COMPANY NAME: _____

ADDRESS: _____

TYPE OF BUSINESS: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

<u>Occupation</u>	<u>Number of New Jobs</u>	<u>Number Listed^{1/}</u>	<u>Number Filled</u>	<u>Job Service Division Applicants</u>	<u>Job Training Partnership Act eligible persons</u>
-------------------	-------------------------------	---------------------------------------	--------------------------	--	--

^{1/}With local Jobs Service Division and local service delivery office created pursuant to the Job Training Partnership Act.

CLOSING ITEM NO.: A-4

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

AND

ASA GOUVERNEUR NY SOLAR II LLC

MEMORANDUM OF LEASE AGREEMENT

DATED AS OF JUNE 1, 2022

THIS DOCUMENT IS INTENDED TO CONSTITUTE A
MEMORANDUM OF LEASE OF REAL ESTATE, AND IS INTENDED
TO BE RECORDED IN LIEU OF SUCH LEASE, IN ACCORDANCE
WITH THE PROVISIONS OF SECTION 294 OF THE NEW YORK REAL
PROPERTY LAW.

PROJECT NUMBER: 4001-20-08

MEMORANDUM OF LEASE AGREEMENT

The undersigned, ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 19 Commerce Lane – Suite 1, Canton, New York (the “Agency”), and ASA GOUVERNEUR NY SOLAR II LLC, a limited liability company organized and existing under the laws of the State of New York having an office for the transaction of business located at 1550 Wewatta Street, Denver, Colorado (the “Company”), have entered into a certain lease agreement dated as of June 1, 2022 (the “Lease Agreement”).

The Lease Agreement covers a leasehold interest affecting the real property (the “Land”) described on Exhibit A attached hereto and made a part hereof, certain improvements on the Land (the “Facility”), and the machinery, equipment and other personal property described on Exhibit B attached hereto and made a part hereof (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to in the Lease Agreement as the “Project Facility”).

The Lease Agreement provides for the lease (with an obligation to purchase) of the Project Facility by the Agency to the Company for a term commencing on the date of execution and delivery of the Lease Agreement and terminating on the earlier to occur of (A) the termination of the Underlying Lease; (B) December 31, 2043 or (C) the date that the Lease Agreement shall be terminated pursuant to Article X thereof (entitled “Events of Default and Remedies”) or Article XI thereof (entitled “Options and Obligation to Purchase”).

The Lease Agreement obligates the Company (A) to pay, on the date of execution and delivery of the Lease Agreement, a single lump sum basic rental payment equal to the Agency’s administrative fee for the project which is the subject of the Lease Agreement (the “Project”), (B) throughout the term of the Lease Agreement, to provide indemnity to the Agency, (C) to make payments in lieu of taxes with respect to the Project Facility, and (D) to make certain other payments to the Agency.

Subject to the provisions of the Lease Agreement, the Lease Agreement (A) obligates the Company to purchase the Project Facility at the end of the lease term, or under certain circumstances upon the sooner termination of the Lease Agreement, and (B) grants to the Company the option, at any time the Company so elects, to purchase the Project Facility, in each case for a purchase price equal to the sum of One Dollar (\$1.00) plus certain other amounts payable to the Agency pursuant to the Lease Agreement.

The Company, as tenant, is entitled to possession of the Project Facility from the date hereof. The Company, as tenant, has the right to enter into leases affecting all or a portion of the Project Facility as landlord, subject to the conditions set forth in the Lease Agreement.

The Lease Agreement is available for inspection during normal business hours at the office of the Agency, currently located as indicated above.

[Remainder of page left blank intentionally]

IN WITNESS WHEREOF, the Agency and the Company have caused this Memorandum of Lease Agreement to be executed in their respective names by their duly authorized officers and to be dated as of the day and year first above written.

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: 
Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC


By: _____
Carson Brown
Authorized Signatory

IN WITNESS WHEREOF, the Agency and the Company have caused this Memorandum of Lease Agreement to be executed in their respective names by their duly authorized officers and to be dated as of the day and year first above written.

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC

By: 
Carson Brown
Authorized Signatory

STATE OF NEW YORK)
)ss:
COUNTY OF ST. LAWRENCE)

On the 6th day of June, in the year 2022, before me, the undersigned, personally appeared PATRICK J. KELLY, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

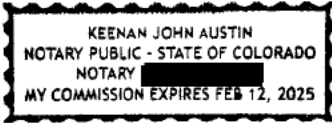


Notary Public

Lori A. Sibley
Notary Public, State of New York
No. [REDACTED]
Qualified in St. Lawrence County
Commission Expires September 30, 2025

STATE OF COLORADO)
)ss:
COUNTY OF DENVER)

On the 6TH day of June, in the year 2022, before me, the undersigned, personally appeared CARSON BROWN, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



[REDACTED]

Notary Public

EXHIBIT A

DESCRIPTION OF THE LAND

A leasehold interest created by a certain lease to agency dated as of June 1, 2022 (the "Lease to Agency") between ASA Gouverneur NY Solar II LLC (the "Company"), as landlord, and St. Lawrence County Industrial Development Agency (the "Agency"), as tenant, in an approximately 17.8 acre portion of an approximately 198.9 acre parcel of land (such portion being referred to hereinafter as the "Leased Land") located at 1645 US Highway 11 in the Town of Gouverneur, St. Lawrence County, New York, said Leased Land being more particularly described below), together with any improvements now or hereafter located on the Leased Land (the Leased Land and all such improvements being sometimes collectively referred to as the "Leased Premises"):

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE TOWN OF GOUVERNEUR, COUNTY OF ST. LAWRENCE, STATE OF NEW YORK AND BEING TAX PARCEL NO. 159.00-1-13 BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE SOUTHERLY HIGHWAY BOUNDARY OF THE EXISTING U.S. HIGHWAY 11 (WIDTH VARIES) AT ITS INTERSECTION WITH THE DIVISION LINE BETWEEN THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) ON THE EAST AND THE LANDS NOW OR FORMERLY OF LORRIE TURNER AS TRUSTEE, CLYDE TURNER AS TRUSTEE (TAX NO. 159.004-3-3.1) ON THE WEST; THENCE SOUTH 34°11'44" EAST ALONG SAID DIVISION LINE A DISTANCE OF 598.92 FEET TO A POINT; THENCE THROUGH THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) NORTH 55°48'16" EAST, A DISTANCE OF 709.10 FEET TO THE POINT OF BEGINNING, THENCE THROUGH THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) THE FOLLOWING TWELVE (12) COURSED AND DISTANCES:

- 1) NORTH 54°52'47" EAST, A DISTANCE OF 216.04 FEET TO A POINT; THENCE
- 2) SOUTH 35°07'13" EAST, A DISTANCE OF 1199.30 FEET TO A POINT; THENCE
- 3) SOUTH 43°35'53" WEST, A DISTANCE OF 762.46 FEET TO A POINT; THENCE
- 4) NORTH 88°32'38" WEST, A DISTANCE OF 121.34 FEET TO A POINT; THENCE
- 5) NORTH 34°11'46" WEST, A DISTANCE OF 700.80 FEET TO A POINT; THENCE
- 6) NORTH 54°52'47" EAST, A DISTANCE OF 414.45 FEET TO A POINT; THENCE
- 7) NORTH 05°29'28" WEST, A DISTANCE OF 411.37 FEET TO A POINT; THENCE
- 8) NORTH 35°07'13" WEST, A DISTANCE OF 217.86 FEET TO THE POINT OF BEGINNING.

BEING 17.235 ACRES, MORE OR LESS.

EXHIBIT B

DESCRIPTION OF THE EQUIPMENT

All equipment, fixtures, machines, building materials and items of personal property and all appurtenances (A) acquired, constructed and/or intended to be installed and/or to be acquired, constructed or installed prior to the Completion Date (as defined in the hereinafter defined Lease Agreement) in connection with the acquisition, construction and installation of the ASA Gouverneur NY Solar II LLC Project (the "Project") of St. Lawrence County Industrial Development Agency (the "Agency") located on the real property described on Exhibit A hereto (the "Land"), said Project to be acquired, constructed and installed by ASA Gouverneur NY Solar II LLC (the "Company") as agent of the Agency pursuant to a lease agreement dated as of June 1, 2022 (the "Lease Agreement") by and between the Agency and the Company and (B) now or hereafter attached to, contained in or used in connection with the Land or placed on any part thereof, though not attached thereto, including but not limited to the following:

- (1) Solar panels, arrays and other equipment necessary to construct a 4.0 MW-ac ground mount solar energy system; and
- (2) Together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A - Information relating to conveyance

Form with sections for Grantor/Transferor and Grantee/Transferee, including fields for Name, Mailing address, City, State, ZIP code, and Social Security number (SSN).

Location and description of property conveyed

Table with 5 columns: Tax map designation - Section, block & lot, SWIS code (six digits), Street address, City, town, or village, and County.

Type of property conveyed (mark an X in applicable box)

Form with multiple choice options for property type (e.g., One- to three-family house, Residential cooperative, Vacant land) and Date of conveyance.

Condition of conveyance (mark an X in all that apply)

Form with multiple choice options for condition of conveyance (e.g., Conveyance of fee interest, Acquisition of a controlling interest, Conveyance pursuant to or in lieu of foreclosure).

Table for recording officer's use with columns: Amount received, Date received, and Transaction number.

Schedule B – Real estate transfer tax return (Tax Law Article 31)

Part 1 – Computation of tax due

- 1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, mark an X in the Exemption claimed box, enter consideration and proceed to Part 3) **Exemption claimed**
- 2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)
- 3 Taxable consideration (subtract line 2 from line 1)
- 4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3
- 5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)
- 6 Total tax due* (subtract line 5 from line 4)

1.		
2.		
3.		0 00
4.		0 00
5.		
6.		0 00

Part 2 – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

- 1 Enter amount of consideration for conveyance (from Part 1, line 1)
- 2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...
- 3 Total additional transfer tax due* (multiply line 2 by 1% (.01))

1.		
2.		
3.		

Part 3 – Explanation of exemption claimed on Part 1, line 1 (mark an X in all boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, New York State, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts..... d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act..... h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property..... i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, § 1401(e) (attach documents supporting such claim) k

* The total tax (from Part 1, line 6 and Part 2, line 3 above) is due within 15 days from the date of conveyance. Make check(s) payable to the county clerk where the recording is to take place. For conveyances of real property within New York City, use Form TP-584-NYC. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Schedule C – Credit Line Mortgage Certificate (Tax Law Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

This is to certify that: (mark an X in the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - a The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - b The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - c The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - d The maximum principal amount secured by the credit line mortgage is \$3 million or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Note: for purposes of determining whether the maximum principal amount secured is \$3 million or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.
- e Other (attach detailed explanation).
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - a A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - b A check has been drawn payable for transmission to the credit line mortgagee or mortgagee's agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded.)

Signature (both the grantors and grantees must sign)

The undersigned certify that the above information contained in Schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of their knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

ST. LAWRENCE INDUSTRIAL DEVELOPMENT AGENCY ASA GOUVERNEUR NY SOLAR II LLC

	Authorized Officer		Authorized Signatory
Grantor signature	Title	Grantee signature	Title
	Title		Title
Grantor signature	Title	Grantee signature	Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you marked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place? If no recording is required, send this return and your check(s), made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Schedule C – Credit Line Mortgage Certificate (Tax Law Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

This is to certify that: (mark an X in the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - a The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - b The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - c The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - d The maximum principal amount secured by the credit line mortgage is \$3 million or more, and the real property being sold or transferred is not principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Note: for purposes of determining whether the maximum principal amount secured is \$3 million or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

- e Other (attach detailed explanation).
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - a A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - b A check has been drawn payable for transmission to the credit line mortgagee or mortgagee's agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded.)

Signature (both the grantors and grantees must sign)

The undersigned certify that the above information contained in Schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of their knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

181 COUNTRY CLUB NY SOLAR II LLC

Grantor signature	Authorized Officer Title	Grantee signature	Authorized Signatory Title
-------------------	-----------------------------	-------------------	-------------------------------

Grantor signature	Title	Grantee signature	Title
-------------------	-------	-------------------	-------

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you marked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place? If no recording is required, send this return and your check(s), made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Schedule D – Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, § 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part 2, mark an X in the second box under *Exemption for nonresident transferors/sellers*, and sign at bottom.

Part 1 – New York State residents

If you are a New York State resident transferor/seller listed in Form TP-584, Schedule A (or an attachment to Form TP-584), you must sign the certification below. If one or more transferor/seller of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferors/sellers

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor/seller as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law § 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law § 685(c), but not as a condition of recording a deed.

Part 2 – Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Form TP-584, Schedule A (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law § 663(c), mark an X in the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor/seller, that transferor/seller is not required to pay estimated personal income tax to New York State under Tax Law § 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on Form TP-584-I, page 1.

Exemption for nonresident transferors/sellers

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor/seller (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law § 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ to _____ (see instructions).
Date Date
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of New York State, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

CLOSING ITEM NO.: A-6

RECAPTURE AGREEMENT

Project # 4001-20-08

THIS RECAPTURE AGREEMENT, made and entered into as of June 1, 2022 (this "Recapture Agreement"), is from ASA GOUVERNEUR NY SOLAR II LLC, a limited liability company organized and existing under the laws of the State of Delaware, with offices located at 1550 Wewatta Street, Denver, Colorado (the "Company"), to ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a New York public benefit corporation having its principal office at 19 Commerce Lane, Suite 1, Canton, New York 13617 (the "Agency").

W I T N E S E T H:

WHEREAS, the Agency was created by Chapter 132 of the Laws of 1971 of the State of New York (the "State"), as amended, codified as Section 914 of the General Municipal Law of the State ("GML"), pursuant to Title 1 of Article 18-A of the GML, as amended (collectively, the "Act"); and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of (A) (1) the acquisition of an interest in an approximately 17.8 acre portion of an approximately 198.9 acre parcel of land located at 1645 US Highway 11 in the Town of Gouverneur, St. Lawrence County, New York (such portion being referred to hereinafter as the "Land"); (2) the installation on the Land of a 4.0 mW-AC ground-mounted photovoltaic solar energy system including panels, racking, inverters, electrical cables, grid interconnection, site preparation, access roads and any other required improvements (collectively, the "Facility") and (3) the acquisition and installation in and around the Facility of certain items of machinery, equipment, fixtures, furniture and other incidental tangible personal property (the "Equipment"), all of the foregoing to constitute a solar energy generating facility to be owned and operated by the Company (the Land, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency pursuant to a lease agreement dated as of June 1, 2022 (the "Lease Agreement") by and between the Agency and the Company (capitalized terms used in this Project Agreement and not otherwise defined shall have the meanings ascribed to such terms in the Lease Agreement); and

WHEREAS, by a resolution adopted by the members on October 2, 2020 (the "Approving Resolution"), the Agency has conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance, which may include a mortgage recording tax benefit, and partial abatement from real property taxes benefit, (collectively, as applicable, hereinafter referred to as the "Financial Assistance"); and

WHEREAS, the Agency requires, as a condition of and as an inducement for it to enter into the transactions contemplated by the Approving Resolution and as more particularly described in the Underlying Lease, the Lease Agreement, the Payment in Lieu of Tax Agreement, the Project Agreement and related documents (collectively, the "Basic Documents"), that the Company provide assurances with respect to the recapture of certain benefits granted under the Basic Documents on the terms herein set forth.

ARTICLE I – RECAPTURE EVENTS

Section 1.1 Recapture Events. The term “Recapture Event” shall mean any of the following events:

(a) A default by the Company under the Basic Documents (other than as described in Section 1.2 which remains uncured beyond any applicable notice and/or grace period, if any, provided thereunder; or

(b) The Project Facility shall cease to be a “project” within the meaning of the Act, as in effect on the Closing Date through the act or omission of the Company; or

(c) The sale of the Project Facility (excluding any sale provided for in Basic Documents) or closure of the Project Facility and/or departure of the Company from St. Lawrence County, except as due to casualty, condemnation or force majeure as provided below; or

(d) Any significant deviations from the information and data provided to the Agency in the Application which would constitute a significant diminution of the Company’s activities in, or commitment to, St. Lawrence County, New York; or

Section 1.2 Events Not Constituting Recapture Events. The following events shall not be deemed Recapture Events hereunder:

(a) a “force majeure” event (as more particularly defined in the Basic Documents);

(b) a taking or condemnation by governmental authority of all or part of the Project Facility; or

(c) the inability or failure of the Company after the Project Facility shall have been destroyed or damaged in whole or in part (such occurrence a “Loss Event”) to rebuild, repair, restore or replace the Project Facility to substantially its condition prior to such Loss Event, which inability or failure shall have arisen in good faith on the part of the Company or any of its affiliates so long as the Company or any of its affiliates have diligently and in good faith using commercially reasonable efforts pursued the rebuilding, repair, restoration or replacement of the Project Facility or part thereof;

Section 1.3 Limited Recapture Event with Limited Recapture. In the event that a Recapture Event has occurred due solely to the failure of the Company to create or cause to be maintained the number of FTEs at the Project Facility as provided in the Approving Resolution in any Tax Year, but the Company has created or caused to be maintained at least 90% of FTEs for such Tax Year, in lieu of recovering the Recaptured Benefits provided herein the Agency may, in its sole discretion, adjust the payments due under the Payment in Lieu of Tax Agreement, if any, on a pro rata basis so that the amount payable under the Payment in Lieu of Tax Agreement, if any, will be adjusted upward retroactively for such Tax Year by the same percentage as the percentage of FTEs that are below the required FTE level for such Tax Year. Such adjustments to the payments due under the Payment in Lieu of Tax Agreement may be made each Tax Year until such time as the Company has complied with the required number of FTEs pursuant to the Approving Resolution.

Section 1.4 Notice Periods. The Company covenants and agrees to furnish the Agency with written notification (i) within sixty (60) days of the end of each Tax Year of the number of FTEs located at the Project Facility for such Tax Year, and (ii) within thirty (30) days of actual notice of any facts or circumstances which would likely lead to a Recapture Event or constitute a Recapture Event hereunder.

The Agency shall notify the Company of the occurrence of a Recapture Event hereunder, which notification shall set forth the terms of such Recapture Event.

ARTICLE II – RECAPTURE OF AGENCY BENEFITS

Section 2.1 Recaptured Benefits. The term “Recaptured Benefits” shall mean all direct monetary benefits, tax exemptions and abatements and other financial assistance, if any, derived solely from the Agency’s participation in the transaction contemplated by the Basic Documents including, but not limited to, the amount equal to:

- (a) any exemption from any applicable mortgage recording tax with respect to the Project Facility on mortgages granted by the Agency on the Project Facility at the request of the Company (the “Mortgage Recording Tax Exemption”); and
- (b) real property tax abatements granted under the Basic Documents (the “Real Property Tax Abatements”).

Section 2.2 Receipt of Recaptured Benefits. Upon the occurrence of a Recapture Event hereunder and the declaration of a Recapture Event by notice from the Agency to the Company, then the Recaptured Benefits shall be payable directly to the Agency or the State of New York if so directed by the Agency; provided, however that, for purposes of clarity, the amount of the Recaptured Benefits payable upon a Recapture Event shall be as set forth in Section 2.3 below. Upon the receipt by the Agency of any amount of Recaptured Benefits due to a Recapture Event, the Agency shall redistribute such amount within thirty (30) days of such receipt to the Taxing Entity that would have received such amount but for the granting by the Agency of the Financial Assistance.

Section 2.3 Calculation of Recaptured Benefits. It is understood and agreed by the parties hereto that the Agency is entering into the Basic Documents in order to provide Financial Assistance to the Company for the Project Facility and to accomplish the public purposes of the Act. In consideration therefor, the Company hereby agrees as follows:

<u>Occurrence of Recapture Event</u>	<u>Percentage of the Recaptured Benefits</u>
Year 1 to Year 2	100%
Year 3 to Year 5	75%
Year 6 to Year 7	50%
Year 8 to Year 10	25%
Year 11 and thereafter	0%

Section 2.4 Late Payments. In the event any payment owing by the Company under this Section shall not be paid within fifteen (15) days after written demand therefor by the Agency, such payment shall bear interest from the date of such demand at a rate equal to one percent (1%) plus the Default Interest Rate, but in no event at a rate higher than the maximum lawful prevailing rate, until the Company shall have made such payment in full, together with such accrued interest to the date of payment, to the Agency (except as otherwise specified above).

Section 2.5 Expenses. The Agency shall be entitled to deduct all reasonable out of pocket expenses of the Agency, including without limitation, reasonable legal fees, incurred with the recovery of all amounts due under this Recapture Agreement, from amounts received by the Agency pursuant to this Recapture Agreement.

ARTICLE III – MISCELLANEOUS

Section 3.1 Obligations Unconditional. The obligations and liabilities of the Company under this Recapture Agreement shall be absolute and unconditional obligations and liabilities of the Company, and shall remain in full force and effect until the Basic Documents have expired or been terminated, except the obligations under Article II hereof shall survive the conveyance of the Project Facility to the Company and the termination of the Basic Documents.

Section 3.2 Condition to Reconveyance of the Project Facility. The parties hereto agree that the Agency shall have no obligation to surrender its leasehold interest in the Project Facility to the Company pursuant to the Basic Documents until all payments to the Agency and St. Lawrence County under the Basic Documents and hereunder have been paid in full.

Section 3.3 Subordination to Mortgage. This Recapture Agreement and any and all modifications, amendments, renewals and extensions thereof is subject and subordinate to any Mortgage or Mortgages which may be granted by the Agency and the Company on the Project Facility or any portion thereof and any and all modifications, amendments, consolidations, extensions, renewals, replacements and increases thereof.

Section 3.4 Terms Defined. All of the capitalized terms used in this Recapture Agreement and not otherwise defined herein shall have the meanings assigned thereto in the Basic Documents.

Section 3.5 Directly or Indirectly. Where any provision in this Recapture Agreement refers to action to be taken by any Person, or which such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

Section 3.6 Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Recapture Agreement to the Agency regardless of any investigation made by the Agency.

Section 3.7 Binding Effect. This Recapture Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties.

Section 3.8 Notices. All notices, certificates and other communications under this Agreement shall be in writing and shall be deemed given when delivered pursuant to terms of the Basic Documents.

Section 3.9 Entire Understanding; Counterparts. This Recapture Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 3.10 Amendments. No amendment, change, modification, alteration or termination of this Recapture Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 3.11 Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Recapture Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Recapture Agreement or any part thereof.

Section 3.12 Governing Law. This Recapture Agreement shall be governed by, and construed in accordance with, the laws of the State, without regard or reference to its conflict of laws principles.

Section 3.13 Section Headings. The headings of the several Sections in this Recapture Agreement have been prepared for convenience of reference only and shall not control, or affect the meaning of or be taken as an interpretation of any provision of this Recapture Agreement.

Section 3.14 Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of the Recapture Agreement or any matters whatsoever arising out of or in any way connected with the Recapture Agreement.

[Remainder of page left blank intentionally]

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

ASA GOUVERNEUR NY SOLAR II LLC

By: 

Carson Brown
Authorized Signatory

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____

Authorized Officer

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

ASA GOUVERNEUR NY SOLAR II LLC

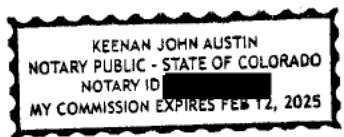
By: _____
Carson Brown
Authorized Signatory

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY:  _____
Authorized Officer

STATE OF COLORADO)
)ss:
COUNTY OF DENVER)

On the 6TH day of June, in the year 2022, before me, the undersigned, personally appeared CARSON BROWN, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



[REDACTED SIGNATURE]

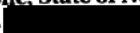
Notary Public

STATE OF NEW YORK)
)ss:
COUNTY OF ST. LAWRENCE)

On the 10th day of June, in the year 2022, before me, the undersigned, personally appeared PATRICK J. KELLY, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

Lori A. Sibley
Notary Public, State of New York
No. 
Qualified in St. Lawrence County
Commission Expires September 30, 2025

CLOSING ITEM NO.: A-5

ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

ASA GOUVERNEUR NY SOLAR II LLC

PAYMENT IN LIEU OF TAX AGREEMENT

DATED AS OF JUNE 1, 2022

RELATING TO THE PREMISES LOCATED AT 1645 US HIGHWAY 11
IN THE TOWN OF GOUVERNEUR, ST. LAWRENCE COUNTY, NEW
YORK.

PROJECT NUMBER: 4001-20-08

PERTAINS ONLY TO TAX ID# 159.002-1-13/.1

AFFECTED TAX JURISDICTIONS:

ST. LAWRENCE COUNTY
TOWN OF GOUVERNEUR
GOUVERNEUR CENTRAL SCHOOL DISTRICT

TABLE OF CONTENTS

(This Table of Contents is not part of the Payment in Lieu of Tax Agreement and is for convenience of reference only.)

PARTIES..... 1
RECITALS..... 1

ARTICLE I

REPRESENTATIONS AND WARRANTIES

Section 1.01. Representations of and Warranties by the Agency 4
Section 1.02. Representations of and Warranties by the Company 4

ARTICLE II

COVENANTS AND AGREEMENTS

Section 2.01. Payments in Lieu of Taxes..... 6
Section 2.02. Late Payments..... 7
Section 2.03. Assessment Challenges 7
Section 2.04. Decommissioning of Project Facility..... 8

ARTICLE III

LIMITED OBLIGATION

Section 3.01. No Recourse; Limited Obligation of the Agency 9

ARTICLE IV

EVENTS OF DEFAULT

Section 4.01. Events of Default 10
Section 4.02. Remedies on Default..... 10
Section 4.03. Payment of Attorney’s Fees and Expenses 11
Section 4.04. Remedies; Waiver and Notice..... 11

ARTICLE V

MISCELLANEOUS

Section 5.01. Term 12
Section 5.02. Company Acts..... 12
Section 5.03. Amendments 12
Section 5.04. Notices 12
Section 5.05. Binding Effect..... 13
Section 5.06. Severability 13
Section 5.07. Counterparts..... 14

Section 5.08. Applicable Law 14

TESTIMONIUM 15

SIGNATURES 15

ACKNOWLEDGEMENTS 16

EXHIBIT A - Description of the Land.....A-1

EXHIBIT B Decommissioning PlanB-1

SCHEDULE A – PILOT Payments Schedule.....SchA-1

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT dated as of June 1, 2022 (the "Payment in Lieu of Tax Agreement") by and between ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 19 Commerce Lane – Suite 1, Canton, New York (the "Agency"), and ASA GOUVERNEUR NY SOLAR II LLC, a limited liability company organized and existing under the laws of the State of Delaware (the "State") having an office for the transaction of business located at 1550 Wewatta Street, Denver, Colorado (the "Company");

WITNESSETH:

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

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of 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 purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 358 of the Laws of 1971 of the State, as amended (collectively, with the Enabling Act, the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, in May, 2020, the Company presented an application (the "Application") to St. Lawrence County Industrial Development Agency (the "Agency"), a public benefit corporation duly established under Chapter 1030 of 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 358 of the 1971 Laws of New York, as amended, constituting Section 914 of said General Municipal Law of the State of New York (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act"), which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to include the following: (A) (1) the acquisition of an interest in an approximately 17.8 acre portion of an approximately 198.9 acre parcel of land located at 1645 US Highway 11 in the Town of Gouverneur, St. Lawrence County, New York (such portion being referred to hereinafter as the "Land"); (2) the installation on the Land of a 4.70 mW-AC ground-mounted photovoltaic solar energy system including panels, racking, inverters, electrical cables, grid interconnection, site preparation, access roads and any other required improvements (collectively, the "Facility") and (3) the acquisition and installation in and around the Facility of certain items of machinery,

equipment, fixtures, furniture and other incidental tangible personal property (the “Equipment”), all of the foregoing to constitute a solar energy generating facility to be owned and operated by the Company (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on September 16, 2020 to the chief executive officers of the county and of each city, town, village and school district in which the Project is or is to be located; (B) caused notice of the Public Hearing to be published in the Gouverneur Tribune Press on September 18, 2020 and in the Watertown Daily Times on September 20, 2020, respectively, being newspapers of general circulation available to the residents of the Town of Gouverneur, St. Lawrence County, New York; (C) in accordance with Executive Order 202.1 and the suspension of the Open Meetings Law relating to public hearings pursuant to Executive Order 202.15, each as issued by Governor Cuomo and as supplemented by subsequent Executive Orders issued by Governor Cuomo and all in response to the on-going Coronavirus (COVID-19) health crisis, conducted the Public Hearing on September 30, 2020 at 11:00 o’clock a.m., local time via webinar rather than in person; and (D) prepared a report of the Public Hearing (the “Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Hearing Report to be made available to the members of the Agency; and

WHEREAS, the Company requested a deviation from the Agency’s Uniform Tax Exemption Policy (the “Policy”) in the form of a payment-in-lieu of tax agreement with a term of 20 years (the “Deviation”), which Deviation (A) exceeds the Agency’s standard 10 year period of abatement under the Policy and (B) required the consent of the Town of Gouverneur (the “Town”) and the Gouverneur Central School District (the “School District”) under the Policy prior to the approval of the Deviation by the Agency; and

WHEREAS, by resolutions adopted on September 14, 2020 and September 8, 2020, respectively, the School District and the Town consented to the Deviation; and

WHEREAS, by further resolution adopted by the members of the Agency on October 9, 2020 (the “Approving Resolution”), the Agency (A) (i) concurred in the determination that the Town of Gouverneur Planning Board (the “Planning Board”) is the “lead agency” with respect to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”) and (ii) acknowledged receipt of a negative declaration from the Planning Board dated June 26, 2019 (the “Negative Declaration”), in which the Planning Board determined that the Project will not have a “significant effect on the environment” pursuant to SEQRA and therefore, that an environmental impact statement is not required to be prepared with respect to the Project (as such quoted terms are defined in SEQRA), (B) approved the Deviation and (C) determined to grant the Financial Assistance and to enter into a lease agreement dated as of June 1, 2022 (the “Lease Agreement”) between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the “Basic Documents”). Pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the

Project and (B) the Agency has leased the Project Facility to the Company. The Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A)) the Company will execute and deliver to the Agency a certain lease to agency (the "Lease to Agency") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency the Land and all improvements now or hereafter located thereon (collectively, the "Leased Premises"); (B) the Company and the Agency will execute and deliver (1) this Payment in Lieu of Tax Agreement, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility and (2) a certain recapture agreement (the "Recapture Agreement") by and between the Company and the Agency relating to the recovery or recapture of certain benefits granted under the Basic Documents (as defined in the Lease Agreement); (C) the Agency and the Company will execute and deliver a certain project agreement (the "Project Agreement") by and between the Agency and the Company relating to the terms of the granting by the Agency of the Financial Assistance to the Company; and (D) the Agency will file with the assessor and mail to the chief executive officer of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the "Real Property Tax Exemption Form") relating to the Project Facility and the Payment in Lieu of Tax Agreement; and

WHEREAS, under the present provisions of the Act and Section 412-a of the Real Property Tax Law of the State of New York (the "Real Property Tax Law"), upon the filing by the Agency of the Real Property Tax Exemption Form, the Agency is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or supervision or control; and

WHEREAS, pursuant to the provisions of Section 6.6 of the Lease Agreement, the Company has agreed to make payments in lieu of taxes with respect to the Project Facility in an amount equivalent to normal taxes, provided that, so long as this Payment in Lieu of Tax Agreement shall be in effect, the Company shall during the term of this Payment in Lieu of Tax Agreement make payments in lieu of taxes in the amounts and in the manner provided in this Payment in Lieu of Tax Agreement, and during such period the provisions of Section 6.6 of the Lease Agreement shall not control the amounts due as payment in lieu of taxes with respect to that portion of the Project Facility which is covered by this Payment in Lieu of Tax Agreement; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into this Payment in Lieu of Tax Agreement in order to make provisions for the payment of PILOT Payments (as defined herein) by the Company to the Agency for the benefit of the County of St. Lawrence (the "County"), the Town and the School District (the County, the Town and the School District being collectively referred to hereinafter as the "Affected Tax Jurisdictions"); and

WHEREAS, all things necessary to constitute this Payment in Lieu of Tax Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Payment in Lieu of Tax Agreement have in all respects been duly authorized by the Agency and the Company;

NOW, THEREFORE, in consideration of the matters above recited, the parties hereto formally covenant, agree and bind themselves as follows, to wit:

ARTICLE I

REPRESENTATIONS AND WARRANTIES

SECTION 1.01. REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY. The Agency does hereby represent, warrant and covenant as follows:

(A) Power. The Agency is a public benefit corporation of the State, has been duly established under the provisions of the Act, is validly existing under the provisions of the Act and has the power under the laws of the State of New York to enter into the transactions contemplated by this Payment in Lieu of Tax Agreement and to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement hereunder.

(B) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State to enter into this Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Payment in Lieu of Tax Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Agency is not prohibited from entering into this Payment in Lieu of Tax Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

SECTION 1.02. REPRESENTATIONS OF AND WARRANTIES BY THE COMPANY. The Company does hereby represent, warrant and covenant as follows:

(A) Power. The Company is a limited liability company duly organized and validly existing under the laws of the State of Delaware, is duly authorized to do business in the State of New York and has the power under the laws of the State to enter into this Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement, and by proper action of its member has been duly authorized to execute, deliver and perform this Payment in Lieu of Tax Agreement.

(B) Authorization. The Company is authorized and has the power under its Articles of Organization, operating agreement and the laws of the State to enter into this Payment in Lieu of Tax Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement. By proper action of its member, the Company has duly authorized the execution, delivery and performance of this Payment in Lieu of Tax Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Company is not prohibited from entering into this Payment in Lieu of Tax Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement by (and the execution, delivery and performance of this Payment in Lieu of Tax Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Payment in Lieu of Tax Agreement will not

conflict with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its Articles of Organization or operating agreement or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and neither the Company's entering into this Payment in Lieu of Tax Agreement nor the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Payment in Lieu of Tax Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any of the foregoing, and this Payment in Lieu of Tax Agreement is the legal, valid and binding obligation of the Company enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consent. No consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Payment in Lieu of Tax Agreement by the Company or as a condition to the validity of this Payment in Lieu of Tax Agreement.

ARTICLE II

COVENANTS AND AGREEMENTS

SECTION 2.01. PAYMENTS IN LIEU OF TAXES. (A) General. Subject to the completion and filing by the taxable status date (March 1, 2023) (the "Taxable Status Date") of New York State Form RP-412-a Application For Real Property Tax Exemption (the "Exemption Application") under Section 412-a of the New York State Real Property Tax Law and Section 874 of the Act, the Project Facility shall be exempt from Real Estate Taxes commencing with the 2023 final roll which will be effective for the tax year 2024. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the Affected Tax Jurisdictions. The Company shall provide the Agency with the information necessary for the completion and filing of the Exemption Application and shall provide such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the Exemption Application. Notwithstanding anything contained herein or in the Lease Agreement to the contrary, in the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. The Company may in good faith contest the denial of the Exemption Application, provided that (i) the Facility continues to qualify as a "project" under the Act; (ii) neither the Project Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. 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 an exemption from Real Estate Taxes except to the extent that such denial results solely from the failure of the Agency to file the Exemption Application with the appropriate assessors by the Taxable Status Date.

(B) Payee and Method/Form of Payment. As long as the Facility is owned or leased by the Agency and leased by the Company from the Agency, or under the Agency's jurisdiction, control or supervision, the Company agrees to pay, no later than January 31 of each year, to the Agency payments in lieu of taxes (each a "PILOT Payment" and collectively the "PILOT Payments") as each becomes due for the applicable Affected Taxing Jurisdictions' taxes, commencing on the Closing Date, and continuing through the termination of this Payment in Lieu of Tax Agreement. The Agency shall send a bill to the Company each year in an amount equal to the relevant PILOT Payment, which is outlined in Schedule A attached hereto. Failure of the Agency to bill a PILOT Payment, or any other payment, shall not, under any circumstances, alleviate the Company's requirement to make such payment under this Agreement when due. The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls. All payments by the Company hereunder shall be paid to the Agency in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

(C) Valuation of Future Additions to the Project Facility. If there shall be a future addition to the Project Facility constructed or added in any manner after the date of this Payment in Lieu of Tax Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Project Facility, the Company shall become liable for payment of an increase in the PILOT Payments. The Agency shall notify the Company of any proposed increase in the PILOT Payments related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction.

Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased PILOT payment until a different PILOT Payment shall be established. If a lesser PILOT Payment is determined in any proceeding or by subsequent agreement of the parties, the PILOT Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding PILOT Payment(s).

(D) Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Pursuant to the Lease Agreement, the Company will be required to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project Facility.

(E) Statements. Pursuant to Section 858(15) of the Act, the Agency agrees to give each Affected Tax Jurisdiction a copy of this Payment in Lieu of Tax Agreement within fifteen (15) days after execution and delivery hereof, together with a request that a copy hereof be given to the appropriate officer or officers of the respective Affected Tax Jurisdictions responsible for preparing the tax rolls for said Affected Tax Jurisdictions. The Agency shall submit to the Company periodic statements specifying the amount and due date or dates of the payments due each Affected Tax Jurisdiction hereunder, such periodic statements to be submitted to the Company by the Agency at approximately the times that tax bills are mailed by the Agency.

(F) Termination of the Lease Agreement. As provided in Section 12.8 of the Lease Agreement, the Company acknowledges that termination of the term of the Lease Agreement, either pursuant to the terms of Section 5.2, Article X or Article XI of the Lease Agreement, shall not relieve the Company of its obligation to make the PILOT Payments due pursuant to Section 2.01(B) of this Payment in Lieu of Tax Agreement prior to the payment in full of all such PILOT Payments and all other amounts due and payable pursuant to this Payment in Lieu of Tax Agreement.

SECTION 2.02. LATE PAYMENTS. (A) First Month. Pursuant to Section 874(5) of the Act, if the Company shall fail to make any payment required by this Payment in Lieu of Tax Agreement when due, the Company shall pay the same, together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Company shall fail to make any payment required by this Payment in Lieu of Tax Agreement when due and such delinquency shall continue beyond the first month, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the Agency until such payment in default shall have been made in full, and the Company shall pay the same to the Agency together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

SECTION 2.03. ASSESSMENT CHALLENGES. The Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Project Facility, with respect to any proposed assessment or change in assessment with respect to the Project Facility by any of the Affected Tax Jurisdictions and likewise 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 or the validity or amount of any tax equivalent provided for herein.

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 were the owner of the Project Facility.

SECTION 2.04. DECOMMISSIONING OF PROJECT FACILITY. (A) Decommissioning Plan. In connection with the Project, the Company prepared a decommissioning plan relating to the Project Facility (the "Project Facility") which describes the process for decommissioning the Project Facility. A copy of the Decommissioning Plan is attached hereto as Exhibit B.

(B) Surety. The Company has obtained a decommissioning bond for the Project Facility in the amount of \$121,000 from Endurance Assurance Corporation for the term beginning on May 23, 2022 and ending on May 23, 2023. For so long as the Project Facility is located in the Town, the Company, or another entity on its behalf, shall be required to (i) maintain a surety (whether a surety bond or letter of credit) with respect to the Project Facility in the amount of \$121,000.00 with an escalator of two percent (2%) annually for the life of the Project Facility and (ii) provide evidence to the Agency of obtaining such surety on an annual basis until decommissioning of the Project Facility has been completed; provided, however, that the failure of the Company to provide the Agency such evidence shall not constitute an Event of Default under and as defined in this Payment in Lieu of Tax Agreement.

ARTICLE III

LIMITED OBLIGATION

SECTION 3.01. NO RECOURSE; LIMITED OBLIGATION OF THE AGENCY. (A) No Recourse. All obligations, covenants, and agreements of the Agency contained in this Payment in Lieu of Tax Agreement shall be deemed to be the obligations, covenants, and agreements of the Agency and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement contained in this Payment in Lieu of Tax Agreement, or otherwise based upon or in respect of this Payment in Lieu of Tax Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, officer, agent (other than the Company), servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Payment in Lieu of Tax Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Payment in Lieu of Tax Agreement, it being expressly understood that this Payment in Lieu of Tax Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, officer, agent (other than the Company), servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Payment in Lieu of Tax Agreement under or by reason of the obligations, covenants or agreements contained in this Payment in Lieu of Tax Agreement or implied therefrom; and that any and all such personal liability of, and any and all such rights and claims against, every such member, officer, agent (other than the Company), servant or employee under or by reason of the obligations, covenants or agreements contained in this Payment in Lieu of Tax Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Payment in Lieu of Tax Agreement by the Agency.

(B) Limited Obligation. The obligations, covenants and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or St. Lawrence County, New York, and neither the State of New York nor St. Lawrence County, New York shall be liable thereon, and further such obligations, covenants and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined in the Lease Agreement).

(C) Further Limitation. Notwithstanding any provision of this Payment in Lieu of Tax Agreement to the contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (1) the Agency shall have been requested to do so in writing by the Company, and (2) if compliance with such request is reasonably expected to result in the incurrence by the Agency (or any of its members, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity and an agreement from the Company to defend and hold harmless the Agency satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

ARTICLE IV

EVENTS OF DEFAULT

SECTION 4.01. EVENTS OF DEFAULT. Any one or more of the following events shall constitute an event of default under this Payment in Lieu of Tax Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Payment in Lieu of Tax Agreement, any one or more of the following events:

(A) Failure of the Company to pay when due any amount due and payable by the Company pursuant to this Payment in Lieu of Tax Agreement and continuance of said failure for a period of fifteen (15) days after written notice to the Company stating that such payment is due and payable;

(B) Failure of the Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed hereunder (other than as referred to in paragraph (A) above) and continuance of such failure for a period of thirty (30) days after written notice to the Company specifying the nature of such failure and requesting that it be remedied; provided that if such default cannot reasonably be cured within such thirty (30) day period and if the Company shall have commenced action to cure the breach of covenant, condition or agreement within said thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as the Company shall require in the exercise of due diligence to cure such default, it being agreed that no such extension shall be for a period in excess of ninety (90) days in the aggregate from the date of default; or

(C) Any warranty, representation or other statement by or on behalf of the Company contained in this Payment in Lieu of Tax Agreement shall prove to have been knowingly false or incorrect in any material respect on the date when made or on the effective date of this Payment in Lieu of Tax Agreement and (1) shall be materially adverse to the Agency at the time when the notice referred to below shall have been given to the Company and (2) if curable, shall not have been cured within thirty (30) days after written notice of such incorrectness shall have been given in compliance with the notice provisions of this Payment in Lieu of Tax Agreement to a responsible officer of the Company, provided that if such incorrectness cannot reasonably be cured within said thirty-day period and the Company shall have commenced action to cure the incorrectness within said thirty-day period and, thereafter, diligently and expeditiously proceeds to cure the same, such thirty-day period shall be extended for so long as the Company shall require, in the exercise of due diligence, to cure such default.

SECTION 4.02. REMEDIES ON DEFAULT. (A) General. Whenever any Event of Default shall have occurred with respect to this Payment in Lieu of Tax Agreement, the Agency (or if such Event of Default concerns a payment required to be made hereunder to any Affected Tax Jurisdiction, then with respect to such Event of Default such Affected Tax Jurisdiction) may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under this Payment in Lieu of Tax Agreement.

(B) Cross-Default. In addition, an Event of Default hereunder shall constitute an event of default under Article X of the Lease Agreement. Upon the occurrence of an Event of Default hereunder resulting from a failure of the Company to make any payment required hereunder, the Agency shall have, as a remedy therefor under the Lease Agreement, among other remedies, the right to terminate the Lease Agreement and convey the Project Facility to the Company, thus subjecting the Project Facility to immediate full taxation pursuant to Section 520 of the Real Property Tax Law of the State.

(C) Separate Suits. Each such Event of Default shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises.

(D) Venue. The Company irrevocably agrees that any suit, action or other legal proceeding arising out of this Payment in Lieu of Tax Agreement may be brought in the courts of record of the State, consents to the jurisdiction of each such court in any such suit, action or proceeding, and waives any objection which it may have to the laying of the venue of any such suit, action or proceeding in any of such courts.

SECTION 4.03. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. Pursuant to Section 874(6) of the Act, if the Company should default in performing any of its obligations, covenants or agreements under this Payment in Lieu of Tax Agreement and the Agency or any Affected Tax Jurisdiction should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency or such Affected Tax Jurisdiction, as the case may be, not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred, whether or not an action is commenced.

SECTION 4.04. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency or any Affected Tax Jurisdiction is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Payment in Lieu of Tax Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency or any Affected Tax Jurisdiction to exercise any remedy reserved to it in this Payment in Lieu of Tax Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Payment in Lieu of Tax Agreement.

(D) No Waiver. In the event any provision contained in this Payment in Lieu of Tax Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Payment in Lieu of Tax Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM. (A) General. This Payment in Lieu of Tax Agreement shall become effective and the obligations of the Company shall arise upon the approval of this Payment in Lieu of Tax Agreement by resolution of the Agency and the execution and delivery of this Payment in Lieu of Tax Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Payment in Lieu of Tax Agreement shall continue to remain in effect until the earlier to occur of (1) December 31, 2043 or (2) the date on which the Lease Agreement and the other Basic Documents are terminated and the Facility is reconveyed by the Agency to the Company pursuant to Article X of the Lease Agreement.

(B) Extended Term. In the event that the Project Facility 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 the exemption results in a payment to the Affected Tax Jurisdictions in excess of the payment described in Article 2 herein, or this Payment in Lieu of Tax Agreement terminates and the Project Facility is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Project Facility if the Project Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

SECTION 5.02. COMPANY ACTS. Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

SECTION 5.03. AMENDMENTS. This Payment in Lieu of Tax Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

SECTION 5.04. NOTICES. (A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) delivered (or refused) in person or by courier to the applicable address stated below, (2) three (3) business days after deposit in the United States, by United States mail (registered or certified mail, postage prepaid, return receipt requested, properly addressed), or (3) when delivered by such other means as shall provide the sender with documentary evidence of such delivery, or when delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) Notices Given by Affected Tax Jurisdictions. Notwithstanding the foregoing, notices of assessment or reassessment of the Project Facility and other notices given by an Affected Tax Jurisdiction under Article II hereof shall be sufficiently given and shall be deemed given when given by the Affected Tax Jurisdiction in the same manner in which similar notices are given to owners of taxable properties by such Affected Tax Jurisdiction.

(C) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

ASA Gouverneur NY Solar II LLC
c/o Amp Energy
1550 Wewatta Street
Denver, Colorado 80202
Attention: Terrence Rasmussen, Director of Development

WITH A COPY TO:

Couch White, LLP
540 Broadway – 7th Floor
Albany, New York 12207
Attention: Joshua Sabo, Esq.

IF TO THE AGENCY:

St. Lawrence County Industrial Development Agency
19 Commerce Lane – Suite 1
Canton, New York 13617
Attention: Chief Executive Officer

WITH A COPY TO:

Hodgson Russ LLP
677 Broadway, Suite 401
Albany, New York 12207
Attention: Christopher C. Canada, Esq.

(D) Copies. A copy of any notice given hereunder by the Company which affects in any way an Affected Tax Jurisdiction shall also be given to the chief executive officer of such Affected Tax Jurisdiction.

(E) Change of Address. The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.05. BINDING EFFECT. This Payment in Lieu of Tax Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns. The provisions of this Payment in Lieu of Tax Agreement are intended to be for the benefit of the Agency and the respective Affected Tax Jurisdictions.


SECTION 5.06. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Payment in Lieu of Tax Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Payment in Lieu of Tax Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 5.07. COUNTERPARTS. This Payment in Lieu of Tax Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.08. APPLICABLE LAW. This Payment in Lieu of Tax Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Agency and the Company have caused this Payment in Lieu of Tax Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY:  _____
Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC


By: _____
Carson Brown
Authorized Signatory

IN WITNESS WHEREOF, the Agency and the Company have caused this Payment in Lieu of Tax Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

ST. LAWRENCE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

ASA GOUVERNEUR NY SOLAR II LLC

By 
Carson Brown
Authorized Signatory

STATE OF NEW YORK)
)ss:
COUNTY OF ST. LAWRENCE)

On the 6th day of June, in the year 2022, before me, the undersigned, personally appeared PATRICK J. KELLY, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

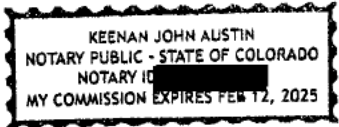


Notary Public

Lori A. Sibley
Notary Public, State of New York
No. [REDACTED]
Qualified in St. Lawrence County
Commission Expires September 30, 2025

STATE OF COLORADO)
)ss:
COUNTY OF DENVER)

On the 6TH day of June, in the year 2022, before me, the undersigned, personally appeared CARSON BROWN, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



[REDACTED SIGNATURE]

Notary Public

EXHIBIT A

DESCRIPTION OF THE LAND

A leasehold interest created by a certain lease to agency dated as of June 1, 2022 (the "Lease to Agency") between ASA Gouverneur NY Solar II LLC (the "Company"), as landlord, and St. Lawrence County Industrial Development Agency (the "Agency"), as tenant, in an approximately 17.8 acre portion of an approximately 198.9 acre parcel of land located at 1645 US Highway 11 in the Town of Gouverneur, St. Lawrence County, New York (such portion being referred to hereinafter as the "Land"), said Land being more particularly described below), together with any improvements now or hereafter located on the Land (the Land and all such improvements being sometimes collectively referred to as the "Leased Premises"):

ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE TOWN OF GOUVERNEUR, COUNTY OF ST. LAWRENCE, STATE OF NEW YORK AND BEING TAX PARCEL NO. 159.00-1-13 BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE SOUTHERLY HIGHWAY BOUNDARY OF THE EXISTING U.S. HIGHWAY 11 (WIDTH VARIES) AT ITS INTERSECTION WITH THE DIVISION LINE BETWEEN THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) ON THE EAST AND THE LANDS NOW OR FORMERLY OF LORRIE TURNER AS TRUSTEE, CLYDE TURNER AS TRUSTEE (TAX NO. 159.004-3-3.1) ON THE WEST; THENCE SOUTH 34°11'44" EAST ALONG SAID DIVISION LINE A DISTANCE OF 598.92 FEET TO A POINT; THENCE THROUGH THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) NORTH 55°48'16" EAST, A DISTANCE OF 709.10 FEET TO THE POINT OF BEGINNING, THENCE THROUGH THE LANDS NOW OR FORMERLY OF THE PARENT WHISPERING PINES LIMITED PARTNERSHIP (TAX NO. 159.00-1-13) THE FOLLOWING TWELVE (12) COURSED AND DISTANCES:

- 1) NORTH 54°52'47" EAST, A DISTANCE OF 216.04 FEET TO A POINT; THENCE
- 2) SOUTH 35°07'13" EAST, A DISTANCE OF 1199.30 FEET TO A POINT; THENCE
- 3) SOUTH 43°35'53" WEST, A DISTANCE OF 762.46 FEET TO A POINT; THENCE
- 4) NORTH 88°32'38" WEST, A DISTANCE OF 121.34 FEET TO A POINT; THENCE
- 5) NORTH 34°11'46" WEST, A DISTANCE OF 700.80 FEET TO A POINT; THENCE
- 6) NORTH 54°52'47" EAST, A DISTANCE OF 414.45 FEET TO A POINT; THENCE
- 7) NORTH 05°29'28" WEST, A DISTANCE OF 411.37 FEET TO A POINT; THENCE
- 8) NORTH 35°07'13" WEST, A DISTANCE OF 217.86 FEET TO THE POINT OF BEGINNING.

BEING 17.235 ACRES, MORE OR LESS.

EXHIBIT B
DECOMMISSIONING PLAN

See attached.

Bond No. [REDACTED]

Know All by These Presents,

That we, ASA Gouverneur NY Solar II LLC ("Principal"), as Principal, and Endurance Assurance Corporation, a New York corporation ("Surety"), as Surety, are held and firmly bound unto Town of Gouverneur, 1227 US Highway 11, Gouverneur, NY 13642 ("Obligee"), in the maximum penal sum of One Hundred Twenty One Thousand Dollars (\$ 121,000) (Maximum Penal Sum) for the payment of which we, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 23rd day of May, 2022.

WHEREAS, the Principal is obligated to a certain decommissioning plan known as the Gouverneur II Solar Photovoltaic Facility Decommissioning Plan (the "Plan") with the Obligee, dated March, 2022, for the decommissioning of a Solar photovoltaic facility in the Town of Gouverneur, which is hereby referred to and made a part hereof as if fully set forth herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal shall well and truly keep, do and perform each and every, all and singular, the matters and things in said Plan set forth and specified to be by said Principal kept, done and performed, at the times and in the manner in said the Plan specified, or shall pay over, make good and reimburse to the above named Obligee, all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise shall remain in full force and effect, subject, however, to the following conditions:

- 1) In the event the Principal, fails to undertake and complete Decommissioning as defined in the decommissioning plans, the Obligee may make a claim against this bond.
- 2) In no event, shall the liability of the Surety exceed the Maximum Penal Sum to the Obligee, regardless of the number of years this bond is extended or renewed.
- 3) The Surety's obligation under this bond shall arise after the Principal fails to complete Decommissioning as defined in the decommissioning plans. Upon notice of the Principal's failure to fulfill its obligations according to the Plan the Surety may take one of the following actions:
 - a) Arrange for the Principal's performance under the Plan; or,
 - b) Undertake and perform decommissioning itself, or through its agents or its independent contractors, in accordance with the terms and conditions of the Plan; or,
 - c) Waive its right to perform and complete decommissioning under the Plan, and after investigation, determine the amount for which it may be liable to the Obligee, as the case may be, and as soon as practicable after the amount is determined, tender payment therefore to the Obligee, as the case may be.

NOTWITHSTANDING ANYTHING CONTAINED IN THE PLAN TO THE CONTRARY, THE LIABILITY OF THE PRINCIPAL AND SURETY UNDER THIS BOND IS LIMITED TO THE TERM BEGINNING THE 23rd DAY OF MAY, 2022, AND ENDING THE 23rd DAY OF MAY, 2023, AND ANY EXTENSIONS OR RENEWALS OF THE REFERENCED PLAN SHALL BE COVERED UNDER THIS BOND ONLY WHEN CONSENTED TO IN WRITING BY THE SURETY. IT IS FURTHER AGREED THAT REFUSAL BY THE SURETY TO EXTEND THE TERM OF THIS BOND SHALL NOT CONSTITUTE A DEFAULT BY THE PRINCIPAL, AND SHALL NOT GIVE RISE TO A CLAIM OR DEMAND AGAINST



THE SURETY UNDER THIS BOND. IN THE EVENT THE SURETY ELECTS NOT TO RENEW THIS BOND, THE SURETY SHALL PROVIDE THE OBLIGEE WITH AT LEAST SIXTY (60) DAYS WRITTEN NOTICE PRIOR TO ANY ANNUAL RENEWAL OF THE SURETY'S INTENT TO TERMINATE THIS BOND.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein, as the case may be, or their heirs, executors, administrators or successors of the Obligee, as the case may be.

ASA Gouverneur NY Solar II LLC
Amp Solar Development Inc., its Manager

By: 
Nicole LeBlanc
Authorized Signatory

Endurance Assurance Corporation

By: 
Gina A. Rodriguez, Attorney-in-Fact 



SOMPO INTERNATIONAL
INSURANCE

POWER OF ATTORNEY

11128

KNOW ALL BY THESE PRESENTS, that Endurance Assurance Corporation, a Delaware corporation, Endurance American Insurance Company, a Delaware corporation, Lexon Insurance Company, a Texas corporation, and/or Bond Safeguard Insurance Company, a South Dakota corporation, each, a "Company" and collectively, "Sompo International," do hereby constitute and appoint: Melissa Fortier, Lupe Tyler, Lisa A. Ward, Donna L. Williams, Misty Wright, Terri L Morrison, Amanda George, Gira A. Rodriguez, Andrea M. Penaloza, Vanessa Dominguez

as true and lawful Attorney(s)-In-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of ONE HUNDRED MILLION Dollars (\$100,000,000.00).

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the sole shareholder of each Company by unanimous written consent effective the 15th day of June, 2019 and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 15th day of June, 2019.

Endurance Assurance Corporation <i>[Signature]</i>	Endurance American Insurance Company <i>[Signature]</i>	Lexon Insurance Company <i>[Signature]</i>	Bond Safeguard Insurance Company <i>[Signature]</i>
By: <i>[Redacted]</i>	By: <i>[Redacted]</i>	By: <i>[Redacted]</i>	By: <i>[Redacted]</i>

Richard Appel; SVP & Senior Counsel Richard Appel; SVP & Senior Counsel Richard Appel; SVP & Senior Counsel Richard Appel; SVP & Senior Counsel



ACKNOWLEDGEMENT

On this 15th day of June, 2019, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/they is an officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: *[Redacted]*
Amy Taylor, Notary Public - My Commission Expires 9/23/2022

CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the sole shareholder of each Company by unanimous written consent effective June 15, 2019 and said resolutions have not since been revoked, amended or modified:

*RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, BRIAN J. BEGGS, CHRISTOPHER DONELAN, SHARON L. SIMS, CHRISTOPHER L. SPARRO, MARIANNE L. WILBERT; and be it further

RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company.

3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 23rd day of May 2022.

By: *[Redacted]*
Daniel S. Lurie, Secretary

NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. Please read this Notice carefully.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website - <http://www.treasury.gov>

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: LexonCI.com

Telephone: 616-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870

SCHEDULE A

PILOT PAYMENTS SCHEDULE

The subject properties are identified as Tax ID Number 159.002-1-13/.1

The PILOT Payments described in this Schedule A relate only to the Land and the improvements to be made thereon. The "Land" refers solely to the 17.8 acres of land and the improvements to be made thereon. As noted above, the Land has been assigned Tax ID Number 159.002-1-13/.1. The underlying land and existing structures comprising the overall 198.9 acre parcel shall be unaffected by and not subject to the terms of this Payment in Lieu of Tax Agreement.

PAYEES: The County (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Project Facility is wholly or partially located), the Town, the School District and any appropriate special districts.

TAXABLE STATUS DATE: March 1, 2023

TAX YEAR BEGINNING: School District 2023/2024

Town and County 2024

BASE AMOUNT: \$4,250 per MW for Year 1, resulting in \$17,000 to the School District, Town and County, on a pro rata basis for year 1.

ANNUAL INCREASE: For tax years subsequent to year 1, the annual amount to be paid shall increase by 2% each year.

PILOT PAYMENTS: Each of the annual payments listed in the table below.

[Table appears on the following page]

<u>YEAR</u>	<u>SCHOOL</u>	<u>TOWN/COUNTY</u>	<u>PAYMENT</u>
1	2023/2024	2024	\$17,000.00
2	2024/2025	2025	\$17,340.00
3	2025/2026	2026	\$17,686.80
4	2026/2027	2027	\$18,040.54
5	2027/2028	2028	\$18,401.35
6	2028/2029	2029	\$18,769.37
7	2029/2030	2030	\$19,144.76
8	2030/2031	2031	\$19,527.66
9	2031/2032	2032	\$19,918.21
10	2032/2033	2033	\$20,316.57
11	2033/2034	2034	\$20,722.91
12	2034/2035	2035	\$21,137.36
13	2035/2036	2036	\$21,560.11
14	2036/2037	2037	\$21,991.31
15	2037/2038	2038	\$22,431.14
16	2038/2039	2039	\$22,879.76
17	2039/2040	2040	\$23,337.36
18	2040/2041	2041	\$23,804.10
19	2041/2042	2042	\$24,280.19
20	2042/2043	2043	\$24,765.79



Project Narrative – ASA Gouverneur NY Solar II LLC

The applicant, ASA Gouverneur NY Solar II LLC, is submitting this application for financial assistance related to a proposed solar photovoltaic energy system located in the Town of Gouverneur. The project has undergone environmental review in accordance with the State Environmental Quality Review Act (SEQR) with the Town of Gouverneur Planning Board acting as lead agency. In the interim since SEQR was completed, the project has been transferred over to ASA Gouverneur NY Solar II LLC from NSG Fund 1, LLC through an Asset Purchase Agreement. ASA Gouverneur NY Solar II LLC is now the owner and operator of the solar energy system.

The proposed project is the installation of a 4.00 megawatt (MW) photovoltaic solar energy system. The project covers approximately 17.8 acres of the property located at 1645 US Highway 11, Gouverneur, NY 13642. The solar system will be comprised of Tier 1 modules in a fixed-tilt setup, equipment pads for transformers, and a gravel access road coming off of US Highway 11. The system will be installed to maximize production and output, while minimizing the disturbance of any soils. The entirety of the solar system will be installed to grade, with minimal excavation for equipment pads and conductors. At the end of the project life, the solar system will be decommissioned, and the property will be restored to its existing condition.

The solar system will be producing electricity that will be fed into the grid and indirectly sold to consumers. These consumers can be homeowners or large users, such as a school, hospital, or municipal building. The electricity produced will be sold to consumers in the form of energy credits that can go towards offsetting a subscriber's monthly electricity bill. This process is referred to as community solar, as this solar system will be participating in New York State's Community Solar Program. Under the State's Community Solar Program, anywhere between 60%-100% of the electricity produced can be sold to residential customers. Up to 40% of the electricity produced can be sold to one or multiple large users (i.e. schools, hospitals, or municipal buildings). This proposed project is expected to generate 6,298,480 kilowatt hours in its first year of operation. Taking into account a minimum of 60%, and a maximum of 100% of this electricity being distributed to mass market customers, as well as the average use of 10,909 kilowatt hours per year for residential customers, there will be anywhere between 346 and 577 households participating in the community solar aspect of this project. These households can save anywhere from 5%-10% off their monthly electricity bill. On the other hand, less residential customers taking part doesn't mean that the electricity generated cannot still be distributed within the community. Again, up to 40% of the anticipated kilowatt hours produced can be



distributed to larger uses in St. Lawrence County. Depending on the usage of these larger users, these customers can also get anywhere from 5%-10% off their monthly electricity bill.

The proposed project will utilize third party contractors for the ongoing operation and maintenance of the solar system. Included in this ongoing work will be vegetation management within the fence line between the rows of panels, as well as around the outside of the solar array along the fence. Also included will be electrical maintenance of the solar system to ensure the optimal output and production through the year. This work will preferably stay within St. Lawrence County, with local contractors being hired part-time for the entirety of the project life (25-35 years).

Overall, the proposed project offers multiple benefits to the St. Lawrence County community. The applicant, ASA Gouverneur NY Solar II LLC, is requesting financial assistance from the St. Lawrence County IDA before undertaking the project. ASA Gouverneur NY Solar II LLC requests a Payment in Lieu of Taxes agreement for an amount of \$4,250 per megawatt. Because of the assistance from the St. Lawrence County IDA, the applicant is willing to waive and forego the sales tax exemption granted on the purchase of eligible materials. Thank you for your time in reviewing this application and considering the financial assistance requested by ASA Gouverneur NY Solar II LLC.

OMNI NAVITAS HOLDINGS, LLC
75 CENTRAL ST., 3RD FLOOR, BOSTON, MA 02109
WWW.OMNI-NAVITAS.COM



St. Lawrence County Industrial Development Agency Application for Assistance (revised 12/2018)

This is an Equal Opportunity Program. Discrimination is prohibited by Federal Law. Complaints of discrimination may be filed with the USDA, Director, Office of Civil Rights, Washington, D.C. 20250.

INSTRUCTIONS

1. The Agency will not take action on any application unless, in the judgment of the Agency, said application contains sufficient information upon which to base a decision whether to approve or tentatively approve an action.
2. Please answer all questions using "None" or "Not Applicable" where the question is not appropriate to the project which is the subject of this application ("the Project"). If more space is needed to answer a question, please attach a separate sheet.
3. Please note that Article 6 of the Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the applicant feels that there are elements of the Project which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the applicant's competitive position, the applicant may identify such elements in writing and request that such elements be kept confidential in accordance with Article 6 of Public Officers Law.
4. The applicant will be required to pay the Agency all actual costs incurred in connection with this application and the Project contemplated herein (to the extent such expenses are not paid out of the proceeds of the Agency's bonds issued to finance the project). The applicant will also be expected to pay all costs incurred by general counsel and bond counsel to the Agency. If applicable, the costs incurred by the Agency, including the Agency's general counsel and bond counsel, may be considered a part of the project and included as a part of the resultant bond issue.
5. The Agency has established a project fee for each type of project in which the Agency participates. Unless the Agency agrees in writing to the contrary, this project fee is required to be paid by the applicant at or prior to the granting of any financing assistance by the Agency.

FEE SCHEDULE

The forms of assistance listed below have a fee of 1% of the total bond series or project cost benefited by the Agency assistance, as applicable. A non-refundable fee of \$2,000 is payable to the SLCIDA at the time the application is submitted which will be credited toward the total fee at closing. If you are applying for multiple types of assistance only one fee of \$2,000 is due.

- Tax Exempt Industrial Revenue Bonds – Complete Appendix A & B
- Payment in Lieu of Taxes (PILOT) – Complete Appendix B
- Mortgage Recording Tax Exemption – Complete Appendix B
- Sales and Use Tax Exemption – Complete Appendix B

Applicant/Company Information

Applicant Name:	ASA Gouverneur NY Solar II LLC	Federal ID#:	██████████
Address:	1550 Wewatta Street	Contact Name:	Peter McAuliffe
		Contact Title:	Project Manager
City/State/Zip:	Denver, CO 80202	Contact Email:	██████████@██████████.com
Telephone:	██████████	Cell:	██████████
Alternate Phone:		Fax:	██████████

Will the proposed project be located within the municipality of the applicant's current operations? Yes No N/A

FORM OF ENTITY:

- Privately Held Corporation
- Public Corporation (Listed as _____ on _____ Exchange)
- Limited Liability Company
- Partnership: General Limited Number of Partners: _____ General _____ Limited
- Other: _____

For assistance please contact St. Lawrence County Industrial Development Agency at (315) 379-9806/TDD Number: 711

If the entity is a Corporation, Limited Liability Company or Partnership:

Date Established: _____ Place of Organization: Delaware SIC Code: _____

If the entity is currently located outside New York State, is it authorized to do business in New York State? Yes No
 N/A

Principal Officers:

Name	Title
<u>Dave Rogers</u>	<u>Manager</u>
<u>James McAuliffe</u>	<u>Authorized Agent</u>
_____	_____
_____	_____

Principal Owners with 10% or more in equity holdings with a percentage ownership:

Name	Percentage
<u>AMP Solar Development, Inc.</u>	_____
_____	_____
_____	_____
_____	_____

Is the Company, or are the owners of the Company, involved in any lawsuits which could have a financial impact on the Company? Yes No

Has the Company, or any of its owners, ever been involved in bankruptcy? Yes No

Are the owners of the Company citizens of the United States? Yes No

Has the Applicant (or any related company) been involved in any prior financing, whether by this Agency, or by a financial institution, in the county in which this project is located? Yes No

If yes, please explain:

Bank References:

Major Trade References:

_____	_____
_____	_____
_____	_____

Legal Counsel: Glenn Frank

Contact: _____

Address: 75 Central Street

City/State/Zip: Boston, MA 02109

Telephone: [REDACTED]

Contact Email: [REDACTED]

Are there any concerns that may be regarded as parent companies, subsidiaries, or affiliates of the Company, including concerns in which the Company or any of its principals holds an interest greater than 5%? Yes No

If yes, please provide a list of names and addresses of all concerns. Attach additional pages as needed.

Name: AMP Solar Development, Inc. is the principal owner of four other projects in St. Lawrence County: ASA DeKalb NY Solar I LLC,

Address: ASA DeKalb NY Solar II LLC, ASA DeKalb NY Solar III LLC, ASA Gouverneur NY Solar I LLC.

City/State/Zip: _____

Nature of Relationship: _____ % Ownership

Business History

Provide a brief history of the Company including changes in ownership operations, overview of operating performance, location and size of current operations, products and/or services, major accounts, principal competitors, and major events affecting sales and/or expenses:

The company was formed for the sole purpose of the photovoltaic solar array and the electricity the array will be producing.

Site Information

Project Address: 1645 US Highway 11
City/State/Zip: Gouverneur, NY 13642
Town: Town of Gouverneur
Village/City: _____
School District: Gouverneur Central School District
Tax Map Parcel: 159.002-1-13

Note utilities currently on site:

- | | |
|--|--|
| <input type="checkbox"/> Municipal Water | <input type="checkbox"/> Municipal Sewer |
| <input type="checkbox"/> Electric | <input type="checkbox"/> Telecom |
| <input type="checkbox"/> Gas | |
| <input type="checkbox"/> Other: | |
| <input type="checkbox"/> Other: | |

Who is the current legal owner of the proposed site? David L. Parent and Susan Parent

What is the size of the existing facility and site, if applicable? Existing parcel is 198.90 acres

What is the size of the proposed facility and site? Proposed Facility is 17.8 acres

What is the current zoning of the project site? Not applicable as the Town of Gouverneur does not have a zoning map.

Does the project require local planning or permitting approvals? Yes No

If yes, please explain: Project required Site Plan Approval by the Town of Gouverneur Planning Board.

Will the project meet zoning regulations after completion? Yes No

If no, explain what zoning changes will be needed:

Identify any Federal, State or local regulatory agencies or boards that will need to approve your project, or will oversee your operations: St. Lawrence County Planning Board, NY DEC, NY SHPO

Will a site plan application need to be filed? If yes, please include a copy, if prepared. Yes No

Has the company completed the required SEQR application? Yes No N/A

If yes, what is the date of the application? March 20, 2019

Project Description

Description of the project: (check all that apply)

- | | |
|---|--|
| <input checked="" type="checkbox"/> New construction | <input type="checkbox"/> Purchase of new machinery and equipment |
| <input type="checkbox"/> Addition to an existing facility | <input type="checkbox"/> Refinancing of an existing project |
| <input type="checkbox"/> Renovation and modernization of an existing facility | <input type="checkbox"/> Other: |
| <input type="checkbox"/> Acquisition of an existing facility | <input type="checkbox"/> Other: |

Project Type for all end users at project site: (check all that apply)

- | | |
|--|---|
| <input type="checkbox"/> Industrial | <input type="checkbox"/> Facility For Aging |
| <input type="checkbox"/> Back Office | <input type="checkbox"/> Multi-Tenant |
| <input type="checkbox"/> Retail | <input type="checkbox"/> Equipment Purchase |
| <input type="checkbox"/> Acquisition of an existing facility | <input type="checkbox"/> Civic Facility (not for profit) |
| <input type="checkbox"/> Mixed Use | <input type="checkbox"/> Commercial |
| <input type="checkbox"/> Housing | <input checked="" type="checkbox"/> Other: Renewable Energy |

What is the proposed commencement date of construction or acquisition of the project? July 1, 2020

What is the timetable for the project including when the project will be in full use? We expect the project to be generating electricity by November 2020

Provide a brief description of the Project. Please identify specific uses and activities occurring within the project location. List proposed products to be manufactured and/or services to be rendered and the markets for those goods and services. Include impact on Company in terms of its operations, profitability, marketing, and other significant operating financial factors. Attach additional pages as needed.

The proposed project is a ground mounted photovoltaic solar energy system. This project covers approximately 17.8 acres of the parcel located at 1645 US Highway 11, Gouverneur, NY 13642. The solar system will be comprised of Tier 1 modules in a fixed-tilt setup, equipment pads for transformers, and a 16' gravel access road coming from the north off of US Highway 11. The system will be installed to maximize production and output, while minimizing the disturbance of any soils. The entirety of the solar system will be installed to grade, with minimal excavation for equipment pads and conductors. At the end of the project life, the solar system will be decommissioned, and the property will be restored to its existing condition.

The solar system will be producing electricity that will be fed into the grid and indirectly sold to consumers. These consumers can be homeowners or large users, such as a school, hospital, or municipal building. The electricity produced will be sold to consumers in the form of energy credits that can go towards offsetting a subscriber's monthly electricity bill. This process is referred to as community solar, as this solar system will be participating in New York State's Community Solar Program.

Does the Applicant intend to lease or sublease more than 10% (by area or fair market value) of the Project?

Yes No

Does the Project include facilities or property that is primarily used in making retail sales of goods or services to customers who personally visit such facilities? Yes (*complete shaded box below*) No

If the answer to the previous question is yes, what percentage of the cost of the Project will be expended on such facilities or property primarily used in making retail sales of goods or services to customers who personally visit the Project? _____

If more than 33.33%, indicate whether any of the following apply to the Project:

Will the Project be operated by a not-for-profit corporation? Yes No

Is the Project likely to attract a significant number of visitors from outside the economic development region in which the Project will be located? Yes No

If yes, please explain: _____

Would the Project occupant, but for the contemplated financial assistance from the Agency, locate the Project and related jobs outside of New York State? Yes No

Is the predominant purpose of the Project to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the City, Town or Village within which the Project will be located because of a lack of reasonably accessible retail trade facilities offering such goods or services? Yes No

If yes, please explain: _____

Is the proposed project a Franchise? Yes No

If Yes, please provide a Franchise Agreement.

Will the Project be located in a census tract or block numbering area (or census tract or block number area contiguous thereto) which, according to the most recent census data, has 1) a poverty rate of at least 20% for the year in which the data relates, or at least 20% of household receiving public assistance, and 2) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year in which the data relates? Yes No

If yes, please explain: _____

Does the applicant have other facilities or related companies located in New York State, outside of the jurisdiction in which the project will take place? Yes No

If yes, will this other facility or company be closed or have operations reduced as a result of this proposed project?

Yes No

If yes, please explain: _____

Are there any current occupants of this proposed site that will have their operations affected (including reduced or discontinued) as a result of this proposed project? Yes No

If yes, please explain: _____

If the answer to either of the previous two questions is yes, indicate whether any of the following apply to the Project:

Is the Project reasonably necessary to preserve the competitive position of the Company or such Project Occupant in its industry? Yes No

If yes, please explain: _____

Is the Project reasonably necessary to discourage the Company or such Project Occupant from removing such other plant or facility to a location outside the State of New York? Yes No
 If yes, please explain: _____

Has the applicant actively sought sites and/or facilities in another state? Yes No
 If yes, please explain: _____

Does the project involve pollution control or processing primarily for solid waste disposal? Yes No
 If yes, please describe the type of pollution to be abated, existing methods of abatement, or the proposed method of abatement, construction and equipment to be financed: _____

Is there a likelihood that the Project would not be undertaken but for the financial assistance provided by the Agency?
 Yes No

If the Project could be undertaken without financial assistance provided by the agency, then provide a statement below indicating why the Project should be undertaken by the Agency: _____

ADDITIONAL REQUIREMENTS: Include the following items as attachments as necessary.

COMPANY INFORMATION: (Prior to Closing)		
<input checked="" type="checkbox"/>	<input type="checkbox"/> N/A	Entity formation documents as appropriate (DBA Certificate, Articles of Incorporation, Bylaws, Certificate of Formation, Operating Agreement, Partnership Agreement)
<input checked="" type="checkbox"/>	<input type="checkbox"/> N/A	Copy of Environmental Assessment Forms (Agency will provide assistance as needed)
FINANCIAL INFORMATION:		
<input type="checkbox"/>	<input checked="" type="checkbox"/> N/A	Company profit and loss statements, balance sheets, and capital statements for the last 2 years. If the business is a sole proprietorship, provide copies of the IRS 1040 and Schedule C. If accountant prepared financial statements are available, they should also be provided.
<input type="checkbox"/>	<input checked="" type="checkbox"/> N/A	Company Annual Reports (form 10-k) for the two most recent fiscal years
<input type="checkbox"/>	<input checked="" type="checkbox"/> N/A	Quarterly reports and current reports since most recent Annual Report, if any

Project Costs, Sources and Uses of Funding

Estimate the costs necessary for the construction, acquisition, rehabilitation, improvements and equipping of the project.

Project Costs:

Item/Use of Funds	Amount		
Land Acquisition	\$0.00		Acres
Building Purchase	\$0.00		Square Feet
Construction or Renovation (Materials)	\$2,680,000.00		
Construction or Renovation (Labor)	\$640,000.00		
Site Work	\$260,000.00		
Machinery & Equipment	\$216,000.00		
Furniture & Fixtures	\$0.00		
Working Capital/Inventory	\$240,000.00		
Other:	\$0.00		
Subtotal Project	4,036,000.00		
Legal Fees (Other than Company's Attorney)	\$0.00		
Agency's Fee (1% of Bond or Benefited Project Amount)			
Subtotal Project	\$		

Sources of Funding:

Source	Amount	Rate	Term	Percentage
Company Equity	\$4,036,000.00	N/A	N/A	N/A
Bank Loan				
SLCIDA-LDC Loan				
Other:				
Other:				
Other:				
Other:				
Total	\$ 4,036,000.00.00	%		100%

Please provide a list of all New York State incentives that have been approved, or are pending approval, as part of this project (example: Grants, Tax Credits, etc...)

NY-Sun Program NYSERDA MW Block Award

Please identify participating lenders:

Lender: _____

Contact Name: _____

Contact Title: _____

Contact Email: _____

Telephone: _____

Lender: _____

Contact Name: _____

Contact Title: _____

Contact Email: _____

Telephone: _____

For assistance please contact St. Lawrence County Industrial Development Agency at (315) 379-9806/TDD Number: 711

Job Creation

Please complete the following chart for the permanent jobs created by the Project. Enter data as follows:

For purposes of this application, we are providing the following guidelines to help you calculate employment levels:

- Full Time: Any permanent employee who works 30 or more hours each week, and does so on a regularly-scheduled basis.
- Part Time Temporary/Seasonal: Any employee who works fewer than 30 hours each week, and does so on an occasional, temporary or as-needed basis.

- A:** Insert the number of full time and part time jobs that currently exist within your company at the time of application.
B: Indicate the average annual wage for each job type listed in A (full time, part time, or other).
C: Indicate the average annual Benefit for each job type listed in A (full time, part time, or other).
D: Insert the number of jobs to be created during year 1 of the project for each job type (full time, part time, or other).
E: Insert the number of jobs to be created during year 2 of the project for each job type (full time, part time, or other).
F: Insert the number of jobs to be created during year 3 of the project for each job type (full time, part time, or other).
G: The total number of jobs to be created for each job type (full time, part time, or other) will automatically calculate.

Jobs	(A)	(B)	(C)	(D)	(E)	(F)	(G)
	Current Jobs	Average Annual Wage	Average Annual Benefit Cost	Number of Jobs Created Year 1	Number of Jobs Created Year 2	Number of Jobs Created Year 3	Total New Jobs Created
Full Time							
Management		\$	\$				
Professional		\$	\$				
Administrative		\$	\$				
Production		\$	\$				
Independent Contractor		\$	\$				
Other:		\$	\$				
Total	0	\$ 0	\$ 0	0	0	0	0
Part Time							
Management		\$	\$				
Professional		\$	\$				
Administrative		\$	\$				
Production		\$	\$				
Independent Contractor		\$	\$ 0	2	2	2	2
Other:		\$	\$				
Total	0	\$ 0	\$ 0	2	2	2	6

If you classified any of the above jobs as "Other", please clarify job type, benefits offered, etc.: _____

Of the new jobs to be created, how many of those vacancies do you expect to fill with St. Lawrence County residents? 1

Please list any benefits currently provided to your full/part time employees (e.g. medical, dental, vision or life insurance; retirement program; etc.) N/A

Indicate the number of construction jobs that will be created as a direct result of this project: 20

RECAPTURE POLICY

APPROVED JUNE 29, 2016

Policy:

It is the policy of the St. Lawrence County Industrial Development Agency (the "SLCIDA") to ensure responsible provision of public benefits to companies for job creation/retention projects. In furtherance of this, SLCIDA wishes to set forth criteria which will assist the SLCIDA in evaluating project performance and determine the appropriateness of recapturing, limiting or terminating a contract with a recipient of IDA benefits.

Applicability:

This policy shall apply to all projects which the SLCIDA has authorized.

Procedure:

All SLCIDA project applicants are required to submit, on a quarterly basis, a copy of the form NYS-45. The NYS-45 will act as a general indicator of the status of the project's employment performance.

All SLCIDA project applicants are required to submit, on an annual basis and no more than 45 days after the end of the calendar year, a "St. Lawrence County IDA Project Report" documenting the position of the project at the end of the calendar year. The report shall include such information as: jobs projected to be created/retained; estimated salary of jobs to be created/retained; current number of Full Time and Part Time and/or Seasonal) jobs; number of construction jobs created through the year; exemptions from taxes and Payment in Lieu of Tax made; and status of bond financing related to the project.

SLCIDA will utilize both of the aforementioned reports, in addition to information compiled throughout the project (site visits; follow-ups; phone/email and general correspondence) to gauge the status of the project in relation to the original commitment of the company as stated in the project application. The project will undergo further review should significant deficiencies be found in any area. SLCIDA will request from project applicants justification for deficiencies/shortfalls, and will compare justifications against industry standards, current market conditions and current economic conditions. Said information will be used by SLCIDA to determine whether the project applicant/project operator did all that it could to meet the obligations outlined in the application and project agreements.

SLCIDA, in its sole discretion and on a case-by-case basis, may determine with respect to a particular project to require the project applicant to agree to the recapture by SLCIDA of the value of any or all exemptions from taxation granted with respect to the project by virtue of the SLCIDA's involvement. Events that SLCIDA may determine will trigger recapture may include, but shall not be limited to, the following:

1. sale or closure of a facility;
2. significant reduction in employment levels;
3. significant change in use of facility;
4. significant change in business activities or project applicant or operator, including a shift of production activity or relocation of operations to a facility outside of SLCIDA's jurisdiction;
5. material non-compliance with or breach of terms of the SLCIDA transaction documents, or of zoning or land use laws or regulations or federal, state, or local environmental laws or regulations;
6. failure to respond to SLCIDA inquiries and/or requests regarding non-compliance with provision of quarterly and/or annual follow-up reporting documents; or
7. failure to respond to SLCIDA inquiries and/or requests concerning any information regarding the project or the project applicant or any project operator.

Upon the occurrence of any of the event triggers listed above, the SLCIDA will send written notice to the project applicant, demanding provision of, or requesting an explanation for failure to provide, information requested by SLCIDA.

Should SLCIDA find that (a) significant deficiencies in the achievement of the economic benefits promised as described in the application and the project agreements have occurred and (2) there appears to be no justification satisfactory to the SLCIDA to explain the deficiencies, the SLCIDA may determine to undertake any enforcement action available to the SLCIDA under the SLCIDA's agreements to seek redress for the deficiencies.

Enforcement action taken by SLCIDA may include, but shall not be limited to:

1. Requesting cure of the deficiency by a final notice letter.
2. Forwarding an event of default notice as described in the project agreements.
3. Notifying the appropriate New York State agencies of the project operator's failure to comply.
4. Terminating any or all of the project agreements.
5. Reducing the value of financial assistance moving forward.
6. Terminating any future financial assistance.
7. Requiring that the value of the all of the financial assistance utilized to date to be repaid in full or in part, with interest.

All recaptured amounts of Financial Assistance shall be redistributed to the appropriate affected taxing jurisdictions, unless agreed to otherwise by such affected taxing jurisdictions.

APPENDIX A – Bond Financing

Please complete this section if you are applying for Bond Financing.

Bond Counsel:

Name of Firm: _____

Address: _____

Telephone: _____

Bond Counsel Contact: _____

Bond Counsel Contact Email: _____

If the Company is asking the Agency to issue its qualified small issue private activity bonds (colloquially known as “small issue IDBs”), what is the dollar value of “capital expenditures” (as determined in accordance with the provisions of the Internal Revenue Code) that the Company or any related company or person, has expended/will expend within this County?

Over the last three years _____

During the present year (20) _____

First year after project completion _____

Second year after project completion _____

Third year after project completion _____

Has the company made any arrangements for the marketing or purchasing of the bonds? Yes No

If yes, please provide information:

What is your total estimated interest expense (assuming taxable interest)? _____

What is your total estimated interest expense (assuming tax exempt interest rate)? _____

APPENDIX B

Please complete this section if you are applying for any of the following:
 Lease Transaction, Bond Financing ▪ Payment in Lieu of Taxes
 Mortgage Recording Tax Exemption ▪ or ▪ Sales and Use Tax Exemption.

MORTGAGE RECORDING TAX EXEMPTION BENEFIT: Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (Include sum total of construction/permanent/bridge financing): \$ N/A

Estimated Mortgage Recording Tax Exemption benefit
 (product of mortgage amount as indicated above multiplied by .0075%): \$ N/A

SALES AND USE TAX: Gross amount of costs for goods and services that are subject to the 8% State and Local Sales and Use Tax in St. Lawrence County – said amount to benefit from the Agency’s Sales and Use Tax exemption benefit.

ESTIMATED COSTS ELIGIBLE FOR SALES TAX EXEMPTION BENEFIT:

Construction/Renovation: Materials	
Site Work	
Non-Manufacturing Equipment	
Furniture & Fixtures	
Machinery & Equipment	
Construction/Renovation: Labor	
Other:	
Other:	
Total	\$

Estimated State and Local Sales and Use Tax Benefit (product of .08 multiplied by the total figure above): \$ N/A

INFORMATION FOR ESTIMATED REAL PROPERTY TAX EXEMPTION BENEFIT:

What is the pre-project assessment of the property?	\$98,600
What is the estimated post-project assessment?	Unkown
What is the property tax ID#	159.002-1-13

ESTIMATED OTHER BENEFITS:

Sales Tax Revenue

If the project will result in the manufacturing or selling of a new product, estimate the amount of annual sales taxes that will be generated on retail sales of the new product. Otherwise, enter “N/A” N/A

If the project will result in increased production or sales of an existing product, estimate the amount of annual sales tax that will be generated on the retail sales of the increased production. Otherwise, enter “N/A”. N/A

Real Property Taxes

Estimate the amount of annual real property taxes that will be payable on the Project (at the end of the PILOT Agreement, if any). Otherwise, enter “N/A”.

REAL PROPERTY TAX BENEFIT: Identify and describe if the Project will utilize a real property tax exemption benefit OTHER THAN the Agency’s PILOT benefit: N/A

IDA PILOT Benefit: Agency staff will indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT depicted on **Cost/Benefit Analysis** attached.

What other benefits will the Project bring to the community and region?

- This project will result in the building of a new plant or the expansion of an existing facility.
- This project will result in the reoccupation of a formerly-vacant building.
- This project directly contributes to “green” or “environmentally friendly” technology.
- This project will result in bringing new inventions, licenses or products to market.

This project will result in expansion of infrastructure capacity.

Other: _____

REPRESENTATIONS BY THE APPLICANT:

The Applicant understands and agrees with the Agency as follows:

- A. Job Listings. In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the project receives any financial assistance from the Agency, except as otherwise provided by collective bargaining agreement, new employment opportunities created as a result of the project will be listed with the NYS Department of Labor, Department of Employment Services and with the administrative entity of the local workforce investment area created by the Federal Workforce Investment and Opportunity Act (WIOA) in which the project is located.
- B. First Consideration for Employment. In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the project receives any financial assistance from the Agency, except as otherwise provided by collective bargaining agreement, where practicable, the Applicant will first consider persons eligible to participate in WIOA programs who shall be referred by those WIA entities for new employment opportunities created as a result of said project.
- C. Annual Sales Tax Filings. In accordance with Section 874(8) of New York General Municipal Law, the Applicant understands and agrees that, if the project receives any financial assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant, and to provide a copy of such filing to the Agency.
- D. Quarterly Employment Reports. The Applicant understands and agrees that, if the project receives any financial assistance from the Agency, the Applicant agrees to file, or cause to be filed with the Agency on a quarterly basis, reports regarding the number of people employed at the project site.
- E. Absence of Conflicts of Interest. The Applicant has received from the Agency a list of all members, officers and employees of the Agency. No member, officer or employer of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this application, except as hereinafter described:
- F. Hold Harmless. The Applicant hereby releases the Agency and its members, directors, officers, servants, agents and employees thereof from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (a) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project, including without limitation the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing.
- G. Recapture. The Applicant understands and agrees that the Agency can impose on the Company penalties or sanctions for projects that do not meet performance standards or project goals as outlined on the Agency's Recapture Policy on Page 9 of this Application. Said penalties/sanctions may include the return by the Company of all or part of the benefits received.
- H. Affirmation. The Applicant understands and agrees that the provisions of Section 862(1) of the New York State General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed project:

862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax worker protection and environmental laws, rules and regulations.

The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement with the Project.

The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

The grounds of deponent's belief relative to all matters in the said application which are not stated upon his own personal knowledge, are investigations which deponent has caused to be made concerning the subject matter of this application as well as the information acquired by deponent in the course of his duties as an officer of and from the books and papers of said corporation.

As an officer of said Corporation (hereinafter referred to as the "applicant") deponent acknowledges and agrees that the applicant shall be and is responsible for all costs incurred by the St. Lawrence County Industrial Development Agency (hereinafter referred to as the "Agency") acting on behalf of the attached whether or not the application, the project it describes, the attendant negotiations and ultimately the necessary issue of bonds are ever carried to a successful conclusion. If, for any reason whatsoever, the applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specified period of time to take reasonable, proper, or requested action or withdraws, abandons, cancels, or neglects the application or if the Agency or Applicant are unable to find buyers willing to purchase the total bond issue required, then upon presentation of invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs involved in conduct of the application, up to that date and time, including but not necessarily limited to fees of bond counsel for the Agency and fees of general counsel for the Agency. Upon successful conclusion and sale of the required bond issue, the Applicant shall pay to the Agency an administrative fee set by the Agency and not to exceed an amount equal to 1% of the total project cost benefited by the Agency's assistance. The cost incurred by the Agency and paid by the applicant, including bond counsel and Agency general counsel fees, and the administrative fee, may be considered as a cost of the project and included as part of the resultant bond issue. The \$2,000.00 application fee shall be credited toward this amount.

CERTIFICATION:

STATE OF Massachusetts)

COUNTY OF **SUFFOLK**) ss.:

James McAuliffe _____, being first duly sworn, deposes and says:

1. That I am the _____ Authorized Agent of ASA Gouverneur NY Solar II LLC
(Under the terms and conditions contained in an Asset Purchase Agreement dated August 20, 2019, between NSG Fund I, LLC and ASA Gouverneur NY Solar II LLC.)
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

(Signature of Officer)

Subscribed and affirmed to
me under penalties of perjury

This 5th day of MAY, 2020

(Notary Public)

