

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT (the "Agreement"), dated as of May 24, 2018, by and between SPENCER – TIOGA SOLAR, LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware and authorized to do business in the State of New York, with an address for the transaction of business located at 601 13<sup>th</sup> Street NW, Suite 450 South, Washington DC 20005 (the "Company") and the TIOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public-benefit corporation duly organized and validly existing under the laws of the State of New York, with an office for the transaction of business located at 56 Main Street, Owego, New York 13827 (the "Agency"), collectively, the "Parties".

WITNESSETH:

WHEREAS, Title 1 of Article 18-A, as amended, 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 (the "State"); and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the 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 to lease any or all of its facilities on such terms and conditions as it deems advisable, to issue its bonds for the purpose of carrying out any of its corporate purposes; and, as security for the payment of the principal and

redemption price of, and interest on, any such bonds so issued and any agreements made in connection therewith, to pledge the revenues and receipts from its facilities or from the lease thereof; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, Chapter 534 of the Laws of 1971 of the State (collectively, the "Act") created the Tioga County Industrial Development Agency (the "Agency"), which is empowered under the Act to undertake the providing, financing and leasing of the project described below; and

WHEREAS, the Tioga County Industrial Development Agency (the "Agency") was created as a public benefit corporation pursuant to and for the purposes specified in Title 1 of Article 18-A of the General Municipal Law; and

WHEREAS, the Company has agreed to a lease and lease-back transaction on the equipment to be situate on the eight (8) tax map parcels listed on Exhibit "A" attached hereto located in the Town of Spencer, Tioga County, New York, to facilitate the construction and equipping of eight (8) solar photovoltaic arrays anticipated to generate 16MWac of power, including solar panels, transformers, inverters, modules, racking, mounting, wiring equipment and associated miscellaneous equipment (the "Project") and to lease the Project from the Agency; and

WHEREAS, the Agency will lease the Project from the Company pursuant to a certain lease agreement (the "Lease Agreement,") and the Agency will lease the Project back to the Company pursuant to a certain leaseback agreement (the "Leaseback Agreement") for a term not to exceed thirty (30) years; and

WHEREAS, the Agency is exempt from the payment of taxes and assessments imposed upon this Project, and as a further condition related to the acquisition of the Project, the Company has agreed that, notwithstanding such exemption, the Company will nevertheless make payments to the Town of Spencer (the "Town"), the Spencer - Van Etten Central School District (the "School District") and the County of Tioga (the "County") while occupying the Project in lieu of general tax levies.

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed as follows:

1. Pursuant to Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law, the Parties hereto understand that, upon acquisition of the Project by the Agency and the filing of an Equalization and Assessment Form RP-412-a (the "Exemption Form") with respect to the Project, and for so long thereafter as the Agency shall have a leasehold interest in the Project, the Project shall be assessed by the various taxing entities having jurisdiction over the Project, including, without limitation, the Town, the School District and the County as exempt on their respective assessment rolls prepared subsequent to the acquisition by the Agency of the Project and the filing of the Exemption Form. The Parties hereto understand that the Project shall not be entitled to such exempt status on any tax roll until the first tax year following the tax status date subsequent to the date upon which the Agency acquires a leasehold interest in the Project and an Exemption Form is filed. The Company shall be required to pay all taxes and assessments lawfully levied and/or assessed against the Project, including taxes and assessments levied for the current tax year and all subsequent years until the Project is entitled to exempt status on the tax roll. The Agency will cooperate with the Company to obtain and preserve the tax exempt status of the Project, including the preparation and filing of the Exemption Form.

2. During each tax year in which the Project shall be tax exempt, the Company agrees to pay to the Town, the School District and the County the PILOT payments as shown on the PILOT Schedule attached hereto as Exhibit "B".

3. Payments made pursuant to this Agreement are not intended to be in lieu of real property taxes payable with respect to the property located at 256 Van Etten Road in the Town of Spencer, Tioga County, New York, 292 Van Etten Road in the Town of Spencer, Tioga County, New York and 350 Van Etten Road in the Town of Spencer, Tioga County, New York (which

shall remain privately taxed) but are made in lieu of any increase in taxes resulting from the installation, construction or operation of the Project.

4. The Agency shall bill the Company annually for the total PILOT payments due as set forth in Exhibit "B" attached hereto. For the purposes of this Agreement, the term "Timely Payment" shall be defined as payment made within thirty (30) days after receipt by the Company of a written bill demanding payment.

5. Should the Company use the Project for other than the construction, equipping and operation of a solar farm consisting of eight (8) solar photovoltaic arrays anticipated to generate 16MWac of power, including solar panels, transformers, inverters, modules, racking, mounting, wiring equipment and associated miscellaneous equipment or allied purposes such as defined in Article 18-A of the General Municipal Law, or acquire a leasehold interest during the term of this Agreement to the leased Project from the Agency, this Agreement shall terminate immediately and the premises shall be returned to the non-exempt portion of the tax roll and be subject to taxation thereafter, including any portion of a tax year not otherwise covered by this Agreement.

6. If any default shall be made in the payment referred to in Paragraph 2, supra, which default is not cured within thirty (30) days after notice to the Company, the Company hereby agrees to pay the same to the extent above specified:

A. Without requiring any further notice of non-payment or of default to the Company, the Agency, or to any other person; and

B. Without further demand.

7. The Parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law and Section 412-A of the Real Property Tax Law does not entitle the Agency to an exemption from special assessments and special ad valorem levies such as, but without limitation, charges for metered water and sewer rent. The Company hereby

agrees to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project.

8. Pursuant to Section 858 (15) of the General Municipal Law, the Agency agrees to give the Town, the School District and the County a copy of this PILOT agreement within fifteen (15) days of the execution and delivery hereof, together with a request that a copy thereof be given to the appropriate officer or officers with respect to each taxing jurisdiction responsible for preparing the tax rolls for said jurisdiction, together with a request that said officer or officers submit to the Company and the appropriate receiver of taxes periodic statements specifying the amount and due date or dates of the payments due to each hereunder. Such periodic statements to be submitted to the Company at approximately the times that tax bills are mailed by such jurisdictions.

9. The Company agrees to pay the amounts due hereunder to each particular taxing jurisdiction in any calendar year to the appropriate receiver of taxes within the period that such taxing entity allows the payment of taxes levied in such calendar year without penalty. The Company shall be entitled to receive receipts for such payments.

10. Pursuant to Section 874(5) of the General Municipal Law, if the Company shall fail to make any payment required by this PILOT Agreement when due, the Company shall pay the same, together with a late-payment penalty equal to five percent (5%) of the amount due. If the Company shall remain in default beyond the first month after such payment is due, the Company shall hereafter pay a late-payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due thereunder is delinquent beyond the first month plus 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 have been payable if such amount were delinquent taxes, until so paid in full.

11. Pursuant to Section 874(6) of the General Municipal Law, if the Company should

default in performing any of its obligations, covenants or agreements under this PILOT Agreement and the Agency or any taxing jurisdiction should employ attorneys or incur other expense for the collection of any amounts payable hereunder, or for the enforcement or performance or observation of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefore, pay to the Agency or such taxing 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 reasonable, actual fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred whether or not an action is commenced.

12. Notwithstanding the foregoing, the Agency reserves the right to terminate, modify, or recapture any benefits provided to the Company pursuant to this PILOT Agreement as well as any other benefit provided to the Company in accordance with the policy of the Agency set forth in Exhibit "C" attached hereto.

13. No remedy herein conferred upon or reserved to the Agency or any taxing jurisdiction is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this PILOT Agreement or now and hereafter existing at law or in equity or by statute. No delay or admission in exercising any such right or power accruing upon a default hereunder shall impair any such right or power or be construed as a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

14. All notices, demands or communications required to be given under this Agreement shall be forwarded simultaneously by certified mail or Federal Express, or other similar overnight delivery service, to the respective addresses of the Parties hereinafter set forth or to such other place(s) as any of the Parties hereto may, from time to time, designate by written

notice to the other.

If to the Agency: Tioga County Industrial Development Agency  
56 Main Street  
Owego, New York 13827

Attn: Chairman

With a Copy to. Joseph B. Meagher, Esq.  
Thomas, Collison & Meagher  
1201 Monroe Street  
P.O. Box 329  
Endicott, New York 13761-0329

If to the Company: Spencer – Tioga Solar, LLC  
601 13<sup>th</sup> Street NW  
Suite 450 South  
Washington DC 20005

Attn: Bharath Srinivasan

With a Copy to: Richard W. Cook, Esq.  
Hancock Estabrook, LLP  
1500 AXA Tower 1  
100 Madison Street  
Syracuse, New York 13202

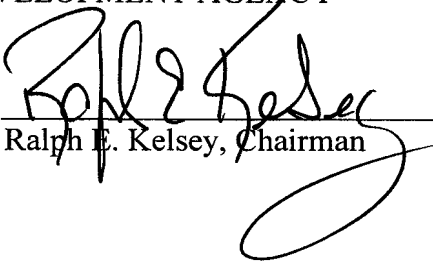
15. The Town, the County, the School District, the Agency and the Company as used herein shall include their successors and assigns. The terms of this Agreement shall inure to the benefit of, and shall be binding upon, any future owners of the Project and the Company's successors and assigns.

16. This Agreement shall remain in effect until termination or expiration of the Leaseback Agreement from the Agency to the Company which, by its terms, expires May 24, 2049.

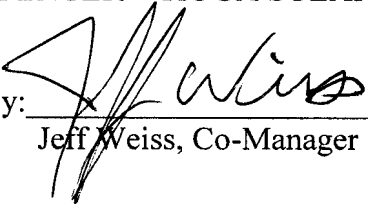
IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be duly

executed the date set forth hereinabove.

TIOGA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Ralph E. Kelsey, Chairman

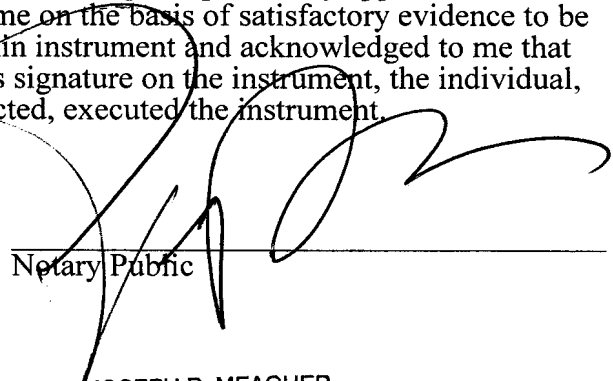
SPENCER – TIOGA SOLAR, LLC

By:   
Jeff Weiss, Co-Manager



STATE OF NEW YORK:  
: ss.:  
COUNTY OF BROOME:

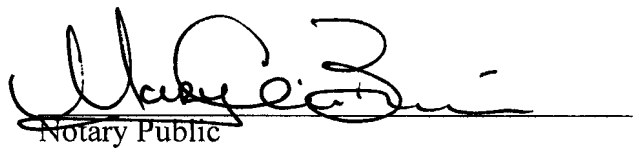
On this 24<sup>th</sup> day of May, 2018, before me, the undersigned, personally appeared RALPH E. KELSEY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same 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.

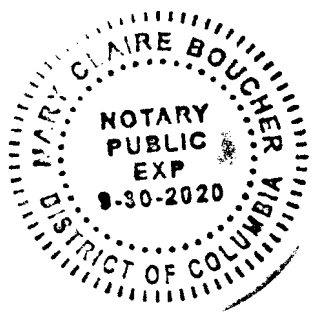
  
\_\_\_\_\_  
Notary Public

JOSEPH B. MEAGHER  
Notary Public, State of New York  
Broome County 02ME4974837  
Commission Expires Nov. 26, 2018

DISTRICT OF COLUMBIA :

On this 1<sup>st</sup> day of June, 2018 before me, the undersigned, personally appeared JEFF WEISS, 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 and that such individual made such appearance before the undersigned in the District of Columbia.

  
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Notary Public



MARY CLAIRE BOUCHER  
NOTARY PUBLIC  
DISTRICT OF COLUMBIA  
My Commission Expires Sept. 30, 2020

EXHIBIT "A"

TAX MAP NUMBERS OF PROJECT

1. 68.00-1-13.1-1
2. 68.00-1-13.2-1
3. 68.00-1-13.3-1
4. 68.00-1-13.4-1
5. 68.00-1-13.5-1
6. 68.00-1-29.11-1
7. 68.00-1-67-1
8. 68.00-1-68-1

EXHIBIT "B"

(SEE ATTACHED PILOT SCHEDULE)

**PAYMENT-IN-LIEU-OF-TAX (PILOT)**

Spencer-Tioga Solar, LLC

Year	PILOT payment*	Town	County	School
1	\$89,600	\$17,140	\$24,342	\$48,066
2	\$91,392	\$17,483	\$24,829	\$49,028
3	\$93,220	\$17,833	\$25,326	\$50,009
4	\$95,084	\$18,189	\$25,883	\$51,010
5	\$96,986	\$18,553	\$26,350	\$52,031
6	\$98,926	\$18,925	\$26,878	\$53,072
7	\$100,904	\$19,303	\$27,415	\$54,134
8	\$102,922	\$19,690	\$27,963	\$55,217
9	\$104,981	\$20,084	\$28,523	\$56,322
10	\$107,080	\$20,485	\$29,114	\$57,449
11	\$109,222	\$20,895	\$29,676	\$58,599
12	\$111,406	\$21,313	\$30,270	\$59,771
13	\$113,634	\$21,740	\$30,875	\$60,967
14	\$115,907	\$22,175	\$31,494	\$62,187
15	\$118,225	\$22,619	\$32,123	\$63,431
16	\$120,590	\$23,071	\$32,766	\$64,700
17	\$123,002	\$23,533	\$33,421	\$65,995
18	\$125,462	\$24,004	\$34,091	\$67,315
19	\$127,971	\$24,484	\$34,772	\$68,662
20	\$130,530	\$24,974	\$35,468	\$70,036
21	\$133,141	\$25,474	\$36,178	\$71,437
22	\$135,804	\$25,983	\$36,939	\$72,867
23	\$138,520	\$26,503	\$37,640	\$74,325
24	\$141,290	\$27,033	\$38,394	\$75,812
25	\$144,116	\$27,574	\$39,161	\$77,828
26	\$146,998	\$28,126	\$39,945	\$78,876
27	\$149,938	\$28,689	\$40,744	\$80,454
28	\$152,937	\$29,263	\$41,560	\$82,063
29	\$155,996	\$29,848	\$42,391	\$83,705
30	\$159,116	\$30,445	\$43,239	\$85,380
<b>Total</b>	<b>\$3,634,900</b>	<b>\$695,431</b>	<b>\$987,770</b>	<b>\$1,950,748</b>

EXHIBIT "C"

(SEE ATTACHED AGENCY POLICY FOR  
TERMINATION, MODIFICATION AND/OR RECAPTURE OF AGENCY BENEFITS)

**TIOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
POLICY FOR TERMINATION, MODIFICATION  
AND/OR RECAPTURE OF AGENCY BENEFITS**

The goal of this Policy is to establish and provide a procedure as required by Section 875 of the New York State General Municipal Law for the termination, modification and/or recapture of Tioga County Industrial Development Agency (the “Agency”) benefits provided to an applicant in order to induce such applicant to undertake a project in Tioga County. For purposes of this policy, Agency benefits shall include and any or all of the following:

- (i) exemptions from New York State and local sales and use tax;
- (ii) an exemption from the New York State mortgage recording tax; and/or
- (iii) an abatement from real property taxes provided through a payment-in-lieu-of-tax (“PILOT”) Agreement.

The Agency reserves the right to terminate, modify, or recapture Agency benefits if :

- (i) an applicant or its sub-agency (if any) authorized to make purchases for the benefit of the project is not entitled to the sales and use tax exemption benefits;
- (ii) sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the applicant or its sub-agents;
- (iii) sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the project;
- (iv) the applicant has made material, false, or misleading statements in its application for financial assistance;
- (v) the applicant has committed a material violation of the terms and conditions of a Project Agreement; and/or
- (vi) there is a material shortfall in job creation and retention projections as set forth in its application.

Upon the occurrence of any of the above conditions, the Agency Board may, upon

recommendation of the Chairman, terminate, modify and/or recapture the Agency benefits provided to a specific project. Prior to undertaking such action, the Agency shall give written notice of its intention to terminate, modify and/or recapture Agency benefits to the applicant specifying the reasons why the Agency is considering such action. The applicant shall have twenty (20) days to respond to the Agency, either in writing or in person, providing such information and documentation as it deems appropriate for the Board to consider prior to making its decision. All such recaptured Agency benefits shall be redistributed to the appropriately affected taxing jurisdictions unless agreed to otherwise by such jurisdictions.

Notwithstanding the foregoing, the Agency retains the right to terminate Agency benefits as otherwise provided in project transaction documents including, but not limited to, failure of the applicant to make timely PILOT payments, to provide required reports, or to cooperate with Agency personnel in providing data regarding project progress.